

Torres Strait Island
REGIONAL COUNCIL

AGENDA

HOUSING AND SAFE AND HEALTHY COMMUNITIES COMMITTEE

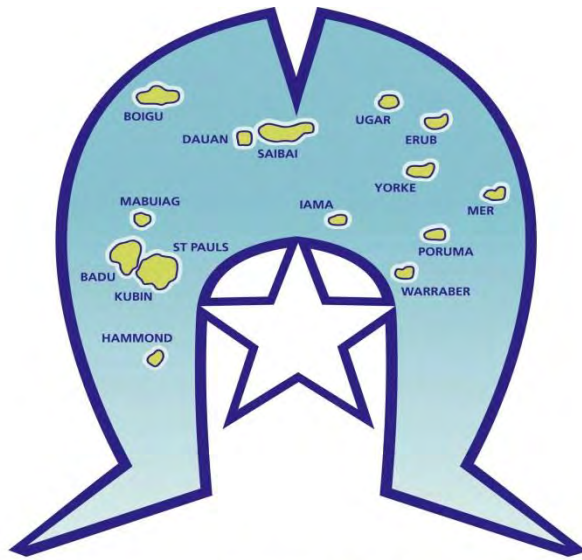
Date: Tuesday – 22nd June 2021

Time: 10:00am to 12:00noon

Venue: VMR #6 – 0292 970 558

Agenda

1. Welcome (Chair)
2. Opening Prayer
3. Apologies
4. Conflict of Interest (COI)/ Material Personal Interest (MPI) Declaration
5. Confirmation of previous minutes – 9 February 2021
6. Action Items List
7. LEGAL - Local Law Enforcement Policy
8. \$14.2M Housing Funding
9. Well-being of staff
10. Lighting in Communities
11. Unsafe Roads and Infrastructure
12. Sea Rescue / QPS
13. White Cards for visitors (Covid19)
14. DV and Child Safety
15. Asbestos
16. Workplace Health and Safety
17. Katter Leases
18. General/ Other Business (on notice)
19. Next meeting date
 - Tuesday 24th August 2021
20. Closing Prayer



Torres Strait Island
REGIONAL COUNCIL

MINUTES

HOUSING AND SAFE AND HEALTHY COMMUNITY COMMITTEE

Date: 9th February 2021
Time: 1:05pm to 3:45pm
Venue: VMR #8 – 0299 165 402

Agenda

1. Welcome (Chair)
2. Opening Prayer
3. Apologies
4. Conflict of Interest (COI)/ Material Personal Interest (MPI) Declaration
5. Terms of Reference Discussion
6. Standing Agenda Items Discussion
 - Housing Authority
 - Local Housing Plan
7. Meeting Dates for 2021
 - April – June (22nd June 2021)
 - July – September (24th August 2021)
 - October – December (26th October 2021)
8. General/ Other Business (on notice)
9. Next meeting date – 22nd June 2021
10. Closing Prayer

Housing and Safe and Healthy Communities Committee

Tuesday 9th February 2021

PRESENT

Cr Keith Fell, Chair
Cr Francis Pearson, Member
Cr John Levi, Member

Ms Rachel Pierce, Acting Chief Operating Officer (Executive Support)
Ms Kathy Cochran, Secretariate Officer

APOLOGIES

Nil

Minutes

1. Welcome (Chair)

Cr Fell welcomed everyone one to the meeting and thanked for their time.

2. Opening Prayer

Cr Fell invited Cr Levi too to open the meeting in prayer.

3. Apologies

Nil

4. Conflict of Interest (COI) - Declarable / Prescribed

No declaration made. Cr Fell encouraged everyone to declare at any time.

5. Terms of Reference Discussion

Follow up on action item to add a dot point to the Terms of Reference.

ACTION: Secretariat to track Committee's suggested changes to TOR and Acting COO to send request to Mette to amend the TOR to include the extra dot point.

6. Action Items

Action item List updated. Acting Chief Operating Officer, provided Committee with a briefing paper addressing all actions on the list.

7. Standing Agenda Items Discussion

- Housing Authority

ACTION: ACOO to send Housing Authority Presentation from the November workshop to all members. This was completed during the meeting.

- Local Housing Plan

ACTION: ACOO to provide briefing on current Housing stock for the whole region.

Committee discussed the idea of having a face to face meeting to develop and workshop short and long term list of priority and plan for the committee going forward.

Acting Chief Operating Officer suggested to the Committee that we focus on the things TSIRC already doing and have allocated funds to. Also consider looking at the Councillor's top 5 priorities and extract the ones that are relevant to the committee's portfolio.

Cr Pearson asked about paving the back road to the lodge as it is a health risk to community especially in the dry season with dust and community members with asthma.

ACTION: ACOO to send members list of Councillors 5 priorities till 30th June 2021. This was actioned during the meeting.

Standing Committee to influence existing TSIRC programs or projects in our portfolio area. Governance process for committee to influence SARG and Council.

ACTION: SO to start an Action items register

ACTION: ACOO to continue with the briefing notes as presented at today's meeting.

BREAK – 1:14PM – 1:54PM

8. Confirmation of Minutes – 22nd December 2020

RESOLUTION:

Moved: Cr Pearson; *Second:* Cr Levi

That the Committee resolves to accept the minutes of the meeting on 22nd December 2020 as a true and accurate.

MOTION CARRIED

9. Meeting Dates for 2021

- April – June (22nd June 2021)
- July – September (24th August 2021)
- October – December (26th October 2021)

Committee accepts the above dates.

10. General/ Other Business (on notice)

Cr Pearson requested an update on the concrete under some houses in community.

Cr Levi asked about the Katter Lease properties without fences and the safety around horses.

Acting Chief Operating Officer briefs Committee on the Housing Authority presentation from the November 2021 Workshop and provided an update on Councils position.

Cr Levi noted that from a debt of \$15m have now be reduced to \$9m.

Cr Pearson raised the issue of asbestos in our communities.

ACTION: Secretariat to check \$5k professional development fund can be used for face to face workshop.

ACTION: ACOO to enquire about the use of HF Radios – disaster and power outage (safe communities) and monitor these radios bimonthly.

BRIEFING NOTE from ACOO

RESOLUTION:

Moved: Cr Levi; *Second:* Cr Pearson

That the Committee accepts and notes the report as presented.

MOTION CARRIED

Cr Pearson raised overcrowding in houses and houses with only one individual.

Cr Fell – Housing paper to SARG on dividing the \$14m and develop a list of priorities. Committee had a robust discussion around the allocations of the funds. The Committee suggested Council look at overcrowding and the register of needs. Develop a methodology to assist with making their decision for allocation per capita between all the Divisions.

ACTION: ACOO to provide briefing note on Housing and Safe and Healthy Communities Committee recommendation for Housing allocation.

Cr Levi would like to raise at next OM – the Caravans – where are they and an update on what Council plans are for them. ACOO informs Committee there is no budget attached to them and have recommended they be handed to Community Service to managed the asset. No policy, no fees, and charges on register etc. Can be utilised in community as short term fixt to overcrowding/ emergency housing.

ACTION: ACOO to include status update on caravans in actions briefing note for next meeting.

10. Next meeting date

- Tuesday 22nd June 2021

11. Closing Remarks and Prayer

Cr Fell thanked everyone for their input. The committee would like to hold an out of session discussion on 22nd June 2021 from 9am- 11am.

ACTION: Secretariat to place in outlook calendars of committee members and staff.

Cr Fell invited Cr Levi to close the meeting in prayer.

MEETING CLOSED – 3:45pm

HOUSING AND SAFE AND HEALTHY COMMUNITIES

STANDING COMMITTEE

ACTION ITEMS

Meeting date	Action item	Action Officer	Update/ Comments
09 Feb 2021	Secretariat to track Committee's suggested changes to ToR and Acting COO to send request to Mette to amend the TOR to include the extra dot point.	SO	
09 Feb 2021	ACOO to send Housing Authority Presentation from the November workshop to all members. This was completed during the meeting.	ACOO	
09 Feb 2021	ACOO to provide briefing on current Housing stock for the whole region.	ACOO	
09 Feb 2021	ACOO to send members list of Councillors 5 priorities till 30 th June 2021. This was actioned during the meeting.	ACOO	
09 Feb 2021	SO to start an Action items register	SO	completed
09 Feb 2021	ACOO to continue with the briefing notes as presented at today's meeting.	ACOO	
09 Feb 2021	Secretariat to check \$5k professional development fund can be used for face to face workshop.	SO	Email sent to CFO for advice 17/6/21
09 Feb 2021	ACOO to enquire about the use of HF Radios – disaster and power outage (safe communities) and monitor these radios bi monthly.	ACOO	
09 Feb 2021	ACOO to provide briefing note on Housing and Safe and Healthy Communities Committee recommendation for Housing allocation.	ACOO	

09 Feb 2021	ACOO to include status update on caravans in actions briefing note for next meeting.	ACOO	
09 Feb 2021	Secretariat to place in outlook calendars of committee members and staff.	SO	completed



TORRES STRAIT ISLAND REGIONAL COUNCIL

HOUSING AND SAFE AND HEALTHY COMMUNITIES STANDING COMMITTEE REPORT

COMMITTEE MEETING:	Housing and Safe and Healthy Communities Standing Committee
DATE:	22 June 2021
ITEM:	Agenda Item for Housing and Safe and Healthy Communities Standing Committee
SUBJECT:	Local Law Enforcement Policy
AUTHOR:	Ewan Gunn, Manager Environment and Health

Recommendation:

That the Housing and Safe and Healthy Communities Standing Committee support the review of the Enforcement Policy and Enforcement Procedure and support the proposed approach.

Executive Summary:

A local law enforcement working group has been established to review the effectiveness of Council's Enforcement Policy and Enforcement Procedure. The working group resolved to refer all outstanding fines to SPER and review the outcomes after a three-to-six-month period and then provide a report to Council to seek endorsement for a recommended process.

An Illegal dumping program has been undertaken on two communities (Saibai and Badu) over the last six months, involving EHW training, community education and awareness, signage and surveillance of illegal dumping hotspot sites.

An Information Report will be submitted to Council in November 2021 with a progress update.

Background:

At the March 2021 Council Ordinary Meeting the following action item was requested:

Legal and Environment & Health to submit a report to the standing committee on policy around enforcement options (including SPER) and implementation plan for enforcement of illegal dumping.

Comment:

Council authorised the Enforcement Policy PO5 in 2013 and the policy has been implemented since 2013. It was last reviewed in 2017 and was due for review in June 2019. The responsible Manager is the Executive Manager of Corporate Services (Chief Operating Officer). See attachment 1 Enforcement Policy PO5

The Enforcement Procedure PO5-PR1 has been implemented since 2015 and was authorised by the CEO. Its last review was 2018 and it was signed by CEO on 14 October 2019. The procedure was identified for review June 2020. The responsible manager is the Chief Operating Officer. See attachment 2 Enforcement Procedure PO5-PR1.

The enforcement procedure is an operational document that details the enforcement procedure and guides enforcement officers in undertaking their duties of administering compliance management of Council's local laws.

Authorised Persons are appointed by the CEO and are historically specially trained Environmental Health Workers based on each division.

Education and Awareness on local laws has been undertaken, verbal and written warnings have been issued by Authorised Persons. As a result of ongoing noncompliance with local laws, in particular animal management, at the behest of Councillors and Executives infringement notices were issued by authorised persons. Since 2017 a total of 188 infringement notices have been issued. The infringement notice fine is set at \$150. Most fines are unpaid.

Eight unpaid fines were referred to the State Penalties Enforcement Register (SPER) in 17/18, with two fine payments being recovered. No other unpaid fines have been referred to SPER. The current debtors report for infringement notices (2018 to 2021) states that there are currently about 60 debtors with outstanding fine to the value of approximately \$18K.

A compliance and enforcement working group has been convened to investigate and establish improved compliance and enforcement results. The working group consists of the Manager Legal Services, Legal Services Administration Officer, Head of Community Services, Co-Ordinator EHW, Senior Administration and Project Officer Community Services, Business Services Accountant Community Services and Manager Environment and Health. A number of options were discussed and considered by the group.

Options:

- Offer an amnesty on the unpaid fines.
- Refer all unpaid fines to SPER.
- Use a debt collection agency rather than SPER.

If there is no enforcement, it undermines the whole process and the local laws. The EHWs have lost faith and feel that they are wasting their time.

The working group resolved to re-establish the SPER referral process and to strictly follow the procedures and to review the outcomes after a three-to-six-month period and provide a report to Council.

ILLEGAL DUMPING

An Illegal dumping program has been undertaken on two communities (Saibai and Badu) over the last six months, the program is a short program funded by the Department of Environment and Science. The program aims to reduce illegal dumping, focus on prevention and intervention of illegally dumped waste entering the environment and gather data of illegal dumping in hotspot areas to assist with future prevention or intervention activities and strategy development.

As part of the program EHW have undertaken training to complete Certificate IV in Government Investigations. Illegal dumping promotional materials have been prepared for the community education and awareness presentations. Signage has been erected at the hotspot illegal dumping sites.

The program involves the Environmental Health Workers identifying hot spot sites and setting up trail cameras and to undertake active surveillance of the identified sites. The EHW have been consulting with PBC and hunters in relation to illegal dumping of turtle and dugong waste and the broader community in general regarding illegal dumping of waste.

The CEO is the delegated person for the *Waste Reduction and Recycling Act 2011*, however it is anticipated that this authority could be devolved to the EHW as authorised persons with additional education and training.

Considerations

Risk Management

Reputational:

TSIRC Local laws have been developed and established to support community safety and wellbeing. Without compliance and enforcement there will be a loss in reputation and there will likely be a reduction in health and amenity in our communities.

EHW are trained to undertake authorised person duties and are to be supported throughout the process to ensure that local laws are complied with.

Council Finance

Local Law compliance assessment and enforcement is undertaken by the Environment and Health Department. There is no dedicated funding attributed to this activity/task.

There is a fee for referral to SPER, about \$80.

\$150 fine infringement may cover cost of issue and administration of infringement however would not cover monitoring surveillance and warnings.

Consultation:

Manager Legal Services, Coordinator Environmental Health Workers, SPER, Business Services Accountant Community Services, Financial Operations Accountant, Divisional EHW

Links to Strategic Plans:

Corporate Plan

- People: Outcome 2: Our Communities are safe, healthy and active.
- Sustainability: Outcome 9: we actively reduce our environmental footprint and manage our resources sustainably.

Operation Plan

- 45 Delivery of animal management program
- 75 Provide a regional legal framework which addresses both State and Traditional Lore requirements

Statutory Requirements:

Local Government Act 2009

Local Government Regulation 2012

Torres Strait Island Regional Council Local Laws

State Penalties and Enforcement Act 1999

Waste Reduction and Recycling Act 2011

Conclusion:

Following the Governance and Leadership Standing Committee's review and confirmation of the above recommendation, an information report will be presented to the full Council at the November 2021 Ordinary Meeting.



Endorsed:

Julia Maurus
Manager Legal Services

David Baldwin
Acting Chief Executive Officer



ENFORCEMENT POLICY

PO5

Responsible Manager:

Executive Manager Corporate Services

Head of power:

Local Government Act 2009 (Qld)
State Penalties Enforcement Act 1999 (Qld)
Queensland Civil and Administrative Tribunal Act 2009 (Qld)
Uniform Civil Procedure Rules 1999 (Qld)

Authorised by:

Council

Authorised on:

2013

Implemented from:

2013

Last reviewed:

2017

Review history:

2013, 2014, 2015

To be reviewed on:

June 2019

Corporate Plan:

Governance

1. POLICY STATEMENT

- a) Torres Strait Island Regional Council [Council] shall employ proactive, lawful, ethical, effective, responsible, strategic, culturally sensitive and timely practices in the enforcement of rights and remedies reasonably available to it.
- b) Council shall employ a proactive approach to efficient identification, minimisation and reporting to senior managers of events which in all reasonableness have potential to adversely affect Council's interests.
- c) Council shall seek to implement and proactively enforce Local Laws for the betterment of community and the welfare of constituents generally.

2. SCOPE

This Policy applies to all Council employees, Councillors, contractors and agents of Council.

3. AUTHORISATION

This page and the previous bearing my initials was/were duly authorised by Council as the Torres Strait Island Regional Council Enforcement Policy on 31 May 2017 and shall hereby supersede any previous policies of the same intent.



Chris McLaughlin
Acting Chief Executive Officer

Date: 31 / 05 / 2017



ENFORCEMENT PROCEDURE

PO5-PR1

Responsible Manager:	Chief Operating Officer
Head of Power:	Enforcement Policy PO5
Authorised by:	Chief Executive Officer
Authorised on:	
Implemented from:	October 2015
Last reviewed:	December 2018
Review history:	2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018
To be reviewed on:	30 June 2020
Corporate Plan:	Governance

PART 1 - GENERAL

1. POLICY STATEMENT

- a) Council shall employ proactive, lawful, ethical, effective, responsible, strategic, culturally sensitive and timely practices in the enforcement of rights and remedies reasonably available to it.
- b) Council shall seek to implement and proactively enforce Local Laws for the betterment of community and the welfare of constituents generally.

2. SCOPE

- a) This Procedure shall apply to Enforcement Officers.
- b) Enforcement Officers shall seek to follow the steps outlined in the Procedure.
- c) Enforcement Officers shall conduct themselves in accordance with the terms of this Procedure.
- d) This Procedure shall operate and should be read in conjunction with other relevant Council policies and procedures and Council's Enforcement Manual.

3. INTERPRETATION

Act means the *Local Government Act 2009* (Qld) and its successors

Administration Officer – Compliance means the Administration Officer responsible to the Manager Legal Services

Authorised Person means a qualified person who has been duly appointed by the Chief Executive Officer as an Authorised Person under a Local Government Act by way of formal instrument of appointment, direction or according to law

CEO means Chief Executive Officer of Torres Strait Island Regional Council

COO means Chief Operating Officer of Torres Strait Island Regional Council

Compliance Notice means a notice of the same name issued in accordance with a Local Government Act or Local Law

Compliance Officer means a duly appointed officer within the Legal Services Division directly responsible to the CEO and responsible for administering the Procedure

Council means Torres Strait Island Regional Council

Enforcement Manual means a written procedure of the same name developed by the Local Government regulating the Enforcement Process

Enforcement Officer means a Compliance Officer, Administration Officer – Compliance, Authorised Person or other Council employee, contractor, or agent otherwise appointed to administer the Procedure

Enforcement Process means the Enforcement process specified in Schedule 1 to the Procedure

Infringement Notice means a notice of the same name issued in accordance with a Local Government Act or Local Law

Local Government Act means an Act administered by Council in its capacity as a Local Government

Offence means an offence alleged to have been committed against a provision of a Local Government Act or Local Law

Offender means a person or other entity alleged to have committed an offence against a provision of a Local Government Act or Local Law

Outlays means any cost or expense to be incurred by Council in the administration of the procedure

Phase means any phase identified in the Enforcement Process

Stop Order means an order (verbal or in writing) given by an Authorised Person under section 29 of *Local Law No 1 (Administration) 2010*

PART 2 - ENFORCEMENT

4. PROCESS

- a) Enforcement Officers shall aim to follow the Enforcement Process set out in Schedule 1 to this Procedure in administering the Procedure.
- b) Enforcement Officers shall be mindful and shall endeavour to understand the personal, cultural and financial circumstances of the Offender in assessing how best to proceed with the Enforcement process.
- c) Authorised persons shall aim to fully investigate each offence in accordance with the Enforcement Manual and shall take all reasonable steps to exhaust such investigations prior to reporting same to the Compliance Officer.

- d) The Enforcement process is not to be construed as an exhaustive list of rights and remedies available to Council and should be used as a guide only, supplemented by the Enforcement Manual.
- e) The Compliance Officer, with the approval of the CEO, may elect to proceed with an alternate course of action (including complaints and summons) where deemed appropriate, and shall have authority and discretion to pursue such lawful alternate course of action without seeking further consent of Council, unless such consent is required pursuant to statute, Local Law or another Council policy and/or procedure.

5. CRITERIA

- a) In deciding whether or not to proceed from Phase to Phase in the Enforcement Process, the Compliance Officer and/or Authorised Person shall consider and satisfy the enforcement criteria set out in Schedule 2 to the Procedure.
- b) The enforcement criteria are not exhaustive. If other relevant factors should in all reasonableness be considered in deciding whether or not to proceed from Phase to Phase in the Enforcement Process, the Enforcement Officer shall be at liberty to have regard to such considerations. The Enforcement Officer may not however, without the written approval of the Executive Manager Corporate Services, refrain from considering and satisfying mandatory enforcement criteria prescribed by this Procedure.

6. NOTICES

Enforcement Officers shall only use the notices approved by the Executive Manager Corporate Services as amended from time to time.

7. CONDUCT

- a) Authorised Persons shall investigate and address expeditiously and in good faith, any complaint made by the general public pertaining to an offence.
- b) Enforcement Officers shall only exercise those powers granted by a formal delegation of the CEO, and strictly within the limits permitted and prescribed by law.
- c) In implementing the Enforcement Process, Enforcement Officers shall maintain a professional and composed attitude and demeanour throughout all dealings with the public.

- d) Authorised persons shall refrain from:
 - i. exhibiting any conduct by way of correspondence or otherwise, which may be construed as a "threat" pursuant to section 359 of Schedule 1 (The Criminal Code) of the *Criminal Code Act 1899* (Qld); and
 - ii. exercising powers otherwise than in strict compliance with a formal instrument of appointment, lawful direction or in accordance with Council policy and procedure; and
 - iii. contravening any other law of the State or Commonwealth;
 - iv. acting in a way contrary to the Enforcement Manual.

8. INFRINGEMENT NOTICE OFFENCES

- a) The current Council-endorsed penalty structure for Infringement Notice Offences is included as Schedule 3 to this Procedure.
- b) The CEO shall be at liberty to amend the penalty structure at any time provided that the amendment is within the maximum penalty unit limit set by Council resolution.

9. DISCIPLINE

A failure by an Enforcement Officer to act within the scope of their delegation or authority may be considered to be misconduct and may attract disciplinary action under the Human Resources Handbook.

10. OUTLAYS


The COO shall have authority to make payment of all outlays for and on behalf of Council during the Enforcement Process, in accordance with the COO financial delegation.

11. SIGNING

The COO shall have the delegated authority of Council to sign all documents for and on behalf of Council of and incidental to the enforcement process.

12. AUTHORISATION

This page and the previous bearing my initials was/were duly authorised by me as the Torres Strait Island Regional Council Enforcement Procedure and shall hereby supersede any previous procedures of the same intent.



Bruce Ranga
Chief Executive Officer

DATE: 14/10/2019

SCHEDULE 1

ENFORCEMENT PROCESS

PHASE 1 – INVESTIGATION

1. **OBSERVE THE OFFENCE**

Authorised Person to personally observe the offence or record sufficient evidence of the offence.

2. **IDENTIFY THE OFFENCE**

Authorised Person to identify the provision of a Local Government Act or Local Law stipulating the offence.

3. **VERBAL WARNING OR DIRECTION**

Authorised person may give verbal direction or warning to Offender.

4. **COLLECT EVIDENCE**

Authorised Person to collect evidence to prove all elements of the offence in accordance with the Enforcement Manual.

5. **THRESHOLD ASSESSMENT**

Authorised Person to assess the offence against the Enforcement Criteria and make decision to or not to, escalate to Phase 2 - Warning.

PHASE 2 – WARNING

6. **ENFORCEMENT DATABASE**

When decision has been made to escalate to Phase 2 – Warning, Authorised Person to advise Coordinator Environmental Health and Manager Environment and Health of decision to escalate. The Administration Officer – Compliance shall update the Enforcement Database with details of the enforcement action taken.

Authorised Person to issue a Compliance Notice or Stop Order to Offender with respect to the offence.

Alternatively, the Authorised Person may issue a Warning Letter to Offender with respect to the offence, in the template form approved by the Manager Environment and Health.

7. **ASSESS COMPLIANCE**

At expiry of the period allowed in the Compliance Notice or Stop Order or Warning Letter, Authorised Person to assess compliance of Offender with the Compliance Notice or Stop Order or Warning Letter (COMPLIANT or NON-COMPLIANT).

Authorised Person to report to Manager Environment and Health with outcome [COMPLIANT or NON-COMPLIANT]. The Administration Officer – Compliance shall update the Enforcement Database with outcome.

8. THRESHOLD ASSESSMENT

On receipt of a NON-COMPLIANT report by Manager Environment and Health from an Authorised Person, Manager Environment and Health to assess the offence against Enforcement Criteria and approve or reject escalation to Phase 3 - Enforcement.

PHASE 3 – ENFORCEMENT

9. ISSUE INFRINGEMENT NOTICE

Authorised Person to issue an Infringement Notice to the Offender with respect to the offence.

10. REPORT TO MANAGER

Authorised Person to provide to Manager Environment and Health an electronic and original carbon copy of the served Infringement Notice. The Administration Officer – Compliance shall update the Enforcement Database with details of the Infringement Notice.

11. ASSESS COMPLIANCE

At expiry of the period allowed in the Infringement Notice to make payment of the fine, Authorised Person to assess compliance of Offender with the Infringement Notice (COMPLIANT or NON-COMPLIANT) and to advise Manager Environment and Health.

12. WITHDRAWING AND REISSUING INFRINGEMENT NOTICES

Authorised Persons, with approval from the Manager Environment and Health, may withdraw and reissue an Infringement Notice at any time before the fine is paid or otherwise discharged under the *State Penalties Enforcement Act 1999* (Qld). Withdrawal under these circumstances generally occurs where it has been identified that the Infringement Notice contains one or more critical errors.

There may also be circumstances where it is appropriate to withdraw and not reissue an Infringement Notice. For example, Council may no longer wish to pursue a fine. This may be as an outcome of a dispute and review.

13. THRESHOLD ASSESSMENT

If Offender has a status of NON-COMPLIANT at expiry of the Infringement Notice period, Manager Environment and Health in consultation with Compliance Officer to assess the offence against Enforcement Criteria and approve or reject escalation to Phase 4 - Reporting.

PHASE 4 – REPORTING

14. REPORT TO STATE PENALTIES ENFORCEMENT REGISTER (SPER)

If Compliance Officer reports the Offence to SPER for enforcement, Administration Officer – Compliance shall record the offence in the Enforcement Database.

15. SPER MONITORING

Compliance Officer shall remain in contact with SPER and obtain regular reports with respect to the status of reported offence(s).

16. INTERNAL REPORTING

Compliance Officer shall provide the Manager Environment and Health with quarterly reports of pending and finalised SPER matters, for inclusion in Information Reports to Council.

NOTE: This Enforcement Process does not preclude, in any way, a decision being made by the Executive Manager Corporate Services to recommend to the Chief Executive Officer, at any time, commencement of legal proceedings in a Court of competent jurisdiction, seeking prosecution of an Offender for an offence.

SCHEDULE 2

ENFORCEMENT CRITERIA

The Compliance Officer and Authorised Persons, as applicable, must satisfy the following threshold criteria before escalating from Phase to Phase of the Enforcement Process.

LEVEL 1 : PHASE 1 - INVESTIGATION to PHASE 2 - WARNING

Mandatory criteria

1. Supporting evidence satisfies all elements of the offence; and
2. There is no authorisation, reasonable justification or excuse for the offence; and
3. There is no likelihood that the offence will be temporary (less than seven (7) days in duration);

Additional criterion (need not be satisfied)

4. The breach is, in all reasonableness, capable of being remedied within a reasonable time.

LEVEL 2: PHASE 2 - WARNING to PHASE 3 - ENFORCEMENT

Mandatory criteria

1. Supporting evidence satisfies all elements of the offence; and
2. There is no authorisation, reasonable justification or excuse for the offence; and
3. There is no likelihood that the offence will be temporary (less than seven (7) days in duration); and
4. Escalation to Phase 3 would be in the public interest.

OR

The Offender has previously received a Compliance Notice or Infringement Notice for an identical offence within the past six months.

LEVEL 3: PHASE 3 - ENFORCEMENT to PHASE 4 - REPORTING

Mandatory criteria

1. Reporting, including expenditure for lodgement costs, approved by the COO; and
2. Infringement Notice properly served on the Offender at Phase 3; and
3. Supporting evidence satisfies all elements of the offence; and
4. There is no authorisation, reasonable justification or excuse for the offence; and
5. There is no likelihood that the offence will be temporary (less than seven (7) days in duration); and
6. Escalation to Phase 4 would be in the public interest.

SCHEDULE 3**COUNCIL-ENDORSED PENALTY STRUCTURE FOR INFRINGEMENT NOTICE OFFENCES****Schedule of penalties - Local Laws****KEY:** CEO Chief Executive Officer

EHW Environmental Health Worker

Penalty unit 1 unit = \$75

AUTHORISING LOCAL LAW	LOCAL LAW OFFENCE CODE	OFFENCE DESCRIPTION	AUTHORISED PERSON	SECTION OF AUTHORISING LOCAL LAW	MAX ALLOWED PENALTY UNIT	INFRINGEMENT NOTICE OFFENCE PENALTY UNITS	INFRINGEMENT NOTICE MAX FINE - \$
No 1 Administration	LL101	Undertaking a prescribed activity without approval –NO CATEGORY	EHW	6(2)(a)	50	5	375
	LL102	Undertaking a prescribed activity without approval – CATEGORY 1	EHW	6(2)(b)	50	5	375
	LL103	Undertaking a prescribed activity without approval – CATEGORY 2	EHW	6(2)(c)	200	N/A	N/A
	LL104	Undertaking a prescribed activity without approval – CATEGORY 3	EHW	6(2)(d)	500	N/A	N/A
	LL105	Providing false or misleading material in connection with an	EHW	8(7)	20	2	150

AUTHORISING LOCAL LAW	LOCAL LAW OFFENCE CODE	OFFENCE DESCRIPTION	AUTHORISED PERSON	SECTION OF AUTHORISING LOCAL LAW	MAX ALLOWED PENALTY UNIT	INFRINGEMENT NOTICE OFFENCE PENALTY UNITS	INFRINGEMENT NOTICE MAX FINE - \$
		approval application					
	LL106	Failure to comply with the conditions of an approval	EHW	11(1)	50	5	375
	LL107	Threatening, insulting or using abusive language to an authorised person	EHW	21	20	2	150
	LL108	Failure to comply with request from an authorised person to produce records for inspection, as required by a condition of approval	EHW	25(3)	10	1	75
	LL109	Failure to comply with a compliance notice for the contravention of a local law or an approval condition	EHW	26(7)	50	5	375
	LL110	Failure to comply with a compliance notice that is authorised by a local law	EHW	27(6)	50	5	375
	LL111	Failure to comply with a stop order	EHW	29	50	5	375
	LL112	Obstructing the proper conduct of a meeting of a local government or local government	EHW	34(1)	20	2	150

AUTHORISING LOCAL LAW	LOCAL LAW OFFENCE CODE	OFFENCE DESCRIPTION	AUTHORISED PERSON	SECTION OF AUTHORISING LOCAL LAW	MAX ALLOWED PENALTY UNIT	INFRINGEMENT NOTICE OFFENCE PENALTY UNITS	INFRINGEMENT NOTICE MAX FINE - \$
		committee					
	LL113	Failure to immediately withdraw from a meeting place and remain away	EHW	34(3)	20	2	150
No 2 Animal Management	LL201	Prohibition of keeping animals in prescribed circumstances	EHW	5(3)	50	5	375
	LL202	Requirement to de-sex	EHW	7(3)	20	2	150
	LL203	Minimum standards for keeping animals	EHW	8(2)	20	2	150
	LL204	Bringing an animal into a public place	EHW	10(2)	20	2	150
	LL205	Animal not under effective control in a public place	EHW	12(1)	20	2	150
	LL206	Dog on heat in public place	EHW	12(2)	20	2	150
	LL207	Non-removal of animal faeces in a public place	EHW	13	20	2	150
	LL208	Failure to proper enclosure (animal)	EHW	14(1)	20	2	150
	LL209	Found wandering at large (animal)	EHW	14(3)	20	2	150
	LL210	Non-compliance with	EHW	15(3)	20	2	150

AUTHORISING LOCAL LAW	LOCAL LAW OFFENCE CODE	OFFENCE DESCRIPTION	AUTHORISED PERSON	SECTION OF AUTHORISING LOCAL LAW	MAX ALLOWED PENALTY UNIT	INFRINGEMENT NOTICE OFFENCE PENALTY UNITS	INFRINGEMENT NOTICE MAX FINE - \$
		koala area requirements					
		Responsible person (owner) must ensure animal does not attack or cause fear:	EHW	17(1)			
	LL211	a) causes death or grievous bodily harm to person			300	N/A	
	LL212	b) death or grievous bodily harm to animal			100	N/A	
	LL213	c) bodily harm to person or another animal			50	5	375
	LL214	d) other			20	2	150
		A person must not allow or encourage an animal to attack or cause fear:	EHW	17(2)			
	LL215	a) causes death or grievous bodily harm to person			300	N/A	
	LL216	b) death or grievous bodily harm to animal			100	N/A	
	LL217	c) bodily harm to person or another animal			50	5	375
	LL218	d) other			20	2	150

AUTHORISING LOCAL LAW	LOCAL LAW OFFENCE CODE	OFFENCE DESCRIPTION	AUTHORISED PERSON	SECTION OF AUTHORISING LOCAL LAW	MAX ALLOWED PENALTY UNIT	INFRINGEMENT NOTICE OFFENCE PENALTY UNITS	INFRINGEMENT NOTICE MAX FINE - \$
	LL219	Unlawful removal of seized or impounded animal	EHW	35	50	5	375
	LL220	Sale of animals – non-compliance with conditions specified in subordinate local law	EHW	42(3)	50	5	375
No 3 Community and Environmental Management	LL301	Pest control notices (enforced under section 27(5) of the Administration Model Local Law No 1)	EHW	10(1)	50	5	375
	LL302	Prohibition on sale of local pest	EHW	11	50	5	375
	LL303	Prohibition on introducing, propagating etc. a declared local pest	EHW	12(1)	50	5	375
	N/A*	Overgrown allotments *enforced under section 27 of the Administration Model Local Law No 1	EHW	13(2)	50	5	375
	N/A*	Accumulation of objects and materials on allotments *enforced under section 27 of the Administration Model Local Law No 1	EHW	14(2)	50	5	375

AUTHORISING LOCAL LAW	LOCAL LAW OFFENCE CODE	OFFENCE DESCRIPTION	AUTHORISED PERSON	SECTION OF AUTHORISING LOCAL LAW	MAX ALLOWED PENALTY UNIT	INFRINGEMENT NOTICE OFFENCE PENALTY UNITS	INFRINGEMENT NOTICE MAX FINE - \$
	LL306	Regulation of lighting and maintaining fires	EHW	15(3)	50	5	375
	LL307	Compliance with a prohibition or restriction prohibition of lighting or maintaining a fire where it exposes property to risk of damage or destruction	EHW	15(4)	50	5	375
	N/A*	Fire hazards *enforced under section 27 of the Administration Model Local Law No 1	EHW	16(2)	50	5	375
	N/A*	Removal or reduction of community safety hazards *enforced under section 27 of the Administration Model Local Law No 1	EHW	19(2)	50	5	375
	LL310	Prescribed requirements for community safety hazards	EHW	20(2)	50	5	375
No 4 Local Government Controlled Areas, Facilities and Roads	LL401	Prohibited and restricted activities	CEO	5(4)	20	2	150
	LL402	Opening hours of local government controlled areas	CEO	7(2)	20	2	150

AUTHORISING LOCAL LAW	LOCAL LAW OFFENCE CODE	OFFENCE DESCRIPTION	AUTHORISED PERSON	SECTION OF AUTHORISING LOCAL LAW	MAX ALLOWED PENALTY UNIT	INFRINGEMENT NOTICE OFFENCE PENALTY UNITS	INFRINGEMENT NOTICE MAX FINE - \$
	LL403	Power of closure of local government controlled areas	CEO	8(5)	20	2	150
	LL404	Numbering of premises and allotments adjoining a road	CEO	10(1), 10(2)	10	1	75
No 7 Indigenous Community Land Management	LL701	Failure to comply with the specified conditions of the authorisation of a class of persons to enter, be in or live in the trust area	EHW	5(4)	35	4	300
	LL702	Breach of conditions prescribed by subordinate local law on use of a camping ground	EHW	10(2)	20	2	150
	LL703	Camping in a camping site or part of a camping site that is temporarily closed	EHW	12(2)	20	2	150
	LL704	Engaging in a prohibited or restricted activity in a park or reserve	EHW	15(4)	20	2	150
	LL705	Failure to comply with a request by an authorised person to produce an approval for inspection	EHW	17(2)	40	4	300

