



**CORANGAMITE
SHIRE**

Enforcement – Infringement and Prosecutions

Corangamite Shire

February 2017

Council Policy



Enforcement – Infringements and Prosecutions

Introduction

Corangamite Shire Council is committed to creating a safe and liveable community that considers the socially disadvantaged and through the decision making process enables everyone to participate fully in the community. This will be achieved by implementing a fair, predictable and consistent approach to compliance.

Purpose

To provide a clear and transparent policy for the issue and administration of Infringement Notices and prosecutions which will meet community scrutiny, provide just outcomes and clearly define responsibilities for Authorised Local Law Officers, as well as provide direction for the prosecution of matters of unpaid Infringement Notices in accordance with legislation.

Scope

This policy only applies to the enforcement of the following Acts, Regulations and Local Laws that Council is authorised to enforce:

Country Fire Authority Act 1958.
Domestic Animals Act 1994.
Environment Protection Act 1970.
Graffiti Prevention Act 2007.
Impounding of Livestock Act 1994.
Summary Offences Act 1966.
Corangamite Shire Local Laws 2015.

Definitions

Prosecutions may either be by Infringement Notice or Magistrate's Court.

References

Corangamite Shire – Procedure Infringements and Prosecutions.
Corangamite Shire - Procedure for Infringement Payments.
Infringements Act 2006.
Country Fire Authority Act 1958.
Domestic Animals Act 1994.
Environment Protection Act 1970.
Graffiti Prevention Act 2007.
Impounding of Livestock Act 1994.
Summary Offences Act 1966.
Corangamite Shire Local Laws 2009.

Policy Detail

Where an Authorised Officer of Council detects an offence, that officer has the authority to decide the most appropriate action to be taken in accordance with the Corangamite Shire – Procedure Infringements and Prosecutions.

In determining the most appropriate action the officer will consider all of the information relating to the offence and work towards resolving the issue in a fair and just manner. This will be achieved by ensuring natural justice/equality and fairness, good governance, transparency, consistency and ethical practices are considered at all times.

When an Official Warning is issued, the offender will be informed of the requirements of the relevant legislation and what can be done to ensure the issue does not occur again. The offender will also be cautioned that further breaches may result in prosecution, which may either be an Infringement Notice or a summons to appear at the Magistrate's Court.

Where possible, officers will work with community members to identify solutions, timeframes and/or steps required to rectify an offence, which may then be included as part of a Notice to Comply. Time extensions for a Notice to Comply will be considered by officers and may be provided if genuine reasons can be provided for the delay in completion.

Where an offence has been committed and the officer has determined that by its nature the offence would warrant prosecution regardless of it being a "first offence, second offence or multiple offence", an officer will issue an Infringement Notice or proceed by summons.

With the exception of prosecutions relating to unpaid fines, no summons will be issued for court prosecutions unless authorised by the Director Sustainable Development and CEO, who will ensure that the prosecution is warranted and that the evidence is sufficient to ensure the case has every chance to succeed.

Council officers will ensure that all recipients of Infringement Notices are aware of the availability to enter into payment plans and that they can request a formal review of the infringement. A payment plan or review may be instigated at any time during the infringement payment process.

All requests for the review of Infringement Notices will be handled in accordance with the Infringements Act 2006.

A request for the withdrawal of an Infringement Notice must be in writing. It must detail a valid reason for withdrawal, showing that the Infringement Notice was either incorrectly or inappropriately issued or that special circumstances apply to the person or exceptional circumstances relate to the offence.

All infringement reviews will be conducted in accordance with the Infringements Act 2006 and the Corangamite Shire – Procedure Infringements and Prosecutions. All decisions made by the Panel will be final.

If an Infringement Notice is not paid by the due date, reminder notices have been sent and a payment plan has not been established with Council in accordance with the Corangamite Shire - Procedure for Infringement Payments, the Infringement Notice may be referred to the Magistrates Court for prosecution in accordance with the Infringements Act 2006.

Exemptions

Nil.

Review Date

This policy is to be reviewed by November 2021 unless updated earlier.

Human Rights

The policy gives regard to relevant legislation, principles of natural justice and procedural fairness, community values and Council's resource capacity.

It is considered that this policy does not impact negatively on any rights identified in the Charter of Human Rights Act (2006).