

# Legislative Compliance Policy

|                     | Name         | Position                               | Signature                                                                            | Date        |
|---------------------|--------------|----------------------------------------|--------------------------------------------------------------------------------------|-------------|
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| Authorised By       | John Scarce  | General Manager                        |  | 28 May 2024 |

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## **1. Purpose**

The purpose of this policy is to provide the systems and operating environment to ensure that Murrumbidgee Council complies with its legislative responsibilities.

## **2. Policy scope**

The responsibility to comply with legislative requirements applies to all elected representatives and Council employees, including contractors and volunteers.

## **3. Outcomes**

A fundamental principle of good public administration is that public officials comply with both the letter and the spirit of the law. As such, Council has an obligation to ensure that legislative requirements are complied with. The community, and those working at Council, have a high expectation that Council will comply with applicable legislation, and Council should take all appropriate measures to ensure that this expectation is met.

‘Compliance requirements’ refers to the activities performed by Council to ensure that it meets its legal obligations. If offences are committed by Council, or people at Council, as a result of legislation not being complied with, Council, staff and Councillors could be prosecuted, Council could be sued resulting in significant financial loss and/or loss of reputation.

Council, in its role as a Local Government authority, is committed to managing its compliance with all statutory and common law requirements relating to its operations and governance.

Council maintains the highest standards of diligence in all areas of public accountability, through its policies, in meeting its legal obligations, in the maintenance of a compliance management system and in the promotion of a compliance culture.

In particular, Council recognises its responsibility to its stakeholders, staff and the wider community to provide an environment that is safe, a culture that promotes equity and an administration that adopts the highest standards of probity, accountability and transparency in all its operations.

## **4. Policy Statement**

Council shall have appropriate processes and structures in place to ensure that legislative requirements are known and understood, made achievable and are integrated into the everyday running of the Council.

These processes and structures will aim to:-

- capture all legislative compliance matters and obligations that Council is required to comply with or report on.
- distribute to relevant staff updates to legislation that applies to Council’s activities.
- assign responsibilities for ensuring that legislation and regulatory obligations are fully implemented in Council.

- provide training and updates for relevant staff, Councillors, volunteers and other relevant people in the legislative requirements that affect them.
- nominate specific staff with the resources to identify and remain up-to-date with new legislation.
- effectively communicate new and amended legislative requirements through the organisation.
- conduct periodic audits to ensure there is compliance.
- establish a mechanism for reporting non-compliance.
- review accidents, incidents and other situations where there may have been non-compliance.
- review audit reports, incident reports, complaints and other information to assess how the systems of compliance can be improved, and implement identified improvements in a timely way.

## **5. Roles and Responsibilities**

### **Councillors and Committee Members**

Councillors and Committee members have a responsibility to be aware and abide by legislation applicable to their role.

### **Executive Team**

Executive Team should ensure that instructions relating to compliance are clear and unequivocal, and that legal requirements which apply to each activity for which they are responsible are identified.

Executive Team should have systems in place to ensure that all staff have the opportunity to be kept fully informed, briefed and/or trained about key legal requirements relative to their work.

Executive Team will respond in a timely way to reports of non-compliance, and take follow-up action to ensure that compliance has resumed.

### **Information Services Officer**

Distribute information received about new or amended legislative requirements to all relevant staff. Report to the Executive Team significant legislative changes requiring an organisational response (such as staff training, and/or policy/procedure development or revision).

### **Employees**

Employees have a duty to be familiar with information provided to them about the legislative requirements applicable to their area of work, and to comply with the legislation.

Employees must rely on current legislation only (accessed from relevant government legislation website) rather than referring to paper or archived electronic records.

Employees shall report through their supervisors to Executive Team any areas of non-compliance that they become aware of.

## 6. Definitions

To encourage the consistent understanding and use of terminology, Council has adopted the definitions contained in AS/ISO 19600:2015 Compliance Management Systems – Guidelines. The main definitions contained in the standard are reproduced below for ease of reference.

|                               |                                                                                                                                                                                                             |
|-------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Requirement</b>            | Need or expectation that is stated, generally implied or obligatory.                                                                                                                                        |
| <b>Compliance requirement</b> | Requirement that an organisation has to comply with.                                                                                                                                                        |
| <b>Compliance commitment</b>  | Requirement that an organisation chooses to comply with.                                                                                                                                                    |
| <b>Compliance obligation</b>  | Compliance requirement or compliance commitment.                                                                                                                                                            |
| <b>Compliance</b>             | Meeting all the organisation's compliance obligations.                                                                                                                                                      |
| <b>Compliance culture</b>     | Values, ethics and beliefs that exist throughout an organisation and interact with the organisation's structure and control systems to produce behavioural norms that are conducive to compliance outcomes. |

## 7. Legislation and Supporting Documents

- Local Government Act 1993
- Local Government (General) Regulation 2005
- Australian Standard AS3806-2006: Compliance Programs
- Murrumbidgee Council's Enterprise Risk Management Policy
- Good Conduct and Administrative Practice – Guidelines for State and Local Government (NSW Ombudsman)
- AS/ISO 19600:2015 Compliance Management Systems - Guidelines

## 8. Procedure

### 8.1 Implementation of Legislation

Council will ensure that when legislation changes steps are taken to ensure relevant staff are advised of the changes, and related policies or procedures are updated to reflect the change where necessary.

### 8.2 Identifying Current Legislation

When relying on legislation for decision-making purposes, Council accesses the current version of legislation through the New South Wales legislation website at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au). The NSW legislation website is the official NSW Government site for the online publication of legislation, and is provided and maintained by the Parliamentary Counsel's Office.

### 8.3 Identifying New or Amended Legislation

- NSW Office of Local Government

Council receives regular circulars from the Office of Local Government on any new or amended legislation. Such advice is received through Council's Information Services section and is distributed by the Information Services Officer to the relevant Council officers for implementation.

- Department of Planning

Council receives regular circulars from the Department of Planning on any new or amended legislation. Such advice is distributed to the relevant Council officers for implementation.

- Local Government NSW

Council receives a weekly circular from Local Government NSW. These circulars have sections on Legal and Finance, and Planning and Environment that highlight changes in legislation applicable to Councils.

- Special Interest Groups and Professional Networks

Council is involved in a number of Local Government professional networks. These special interest groups meet periodically to discuss matters which include legislative changes and associated Council implementation.

A compliance framework will be maintained identifying the more significant laws and regulations applying to the Council (refer Schedule 1) and reporting obligations (refer Schedule 2).

#### **8.4 Obtaining Advice on Legislative Provisions**

Council shall obtain advice on matters of legislation and compliance where this is necessary. Contact can be made with the relevant Legal Officer of one or another of the following:

- Local Government NSW (Legal Officer)
- NSW Office of Local Government (Council Governance Team)
- Council's Solicitors.

#### **8.5 Informing Council of Legislative Change**

If necessary, the General Manager or delegated officer will, on receipt of advice of legislative amendments, submit a report to a Council meeting on the new or amended legislation.

Council's format for all its reports to Council meetings provides that all reports include a reference to any legislative or statutory implications arising from the subject matter of the report.

Council shall review all incidents and complaints relating to its legislative compliance in accordance with its complaint handling policy. Such reviews and investigations will assess compliance with legislation, standards, policies and procedures that are applicable.

#### **8.6 Reporting of Non-compliance**

All instances of non-compliance shall be reported immediately to the supervising manager. The supervising manager shall determine the appropriate response and, if necessary, report the matter to the relevant Director.

The General Manager may investigate any reports of significant noncompliance and, if necessary, report the non-compliance to the Council and/or the Office of Local Government. The General Manager will also take the necessary steps to improve compliance systems through the Enterprise Risk Management Framework and the Audit, Risk and Improvement Committee.

## **9. Policy Review**

This Policy:

- To be reviewed within the first year of the new Council term;
- May be reviewed and amended at any time at Council's discretion (or if legislative or State Government policy changes occur).

## Schedule 1 – Compliance Framework Legislation/Award

| Compliance Framework Legislation/Award             | Responsibility                                                                                                                                        |
|----------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1. New South Wales</b>                          |                                                                                                                                                       |
| Anti-Discrimination Act 1977                       | Council<br>General Manager<br>People and Culture Officer                                                                                              |
| Biodiversity Conservation Act 2016                 | Director of Infrastructure<br>Director of Planning, Community & Development                                                                           |
| Biosecurity Act 2015                               | Director of Planning, Community & Development                                                                                                         |
| Companion Animals Act 1998                         | Director of Planning, Community & Development                                                                                                         |
| Contaminated Land Management Act 1997              | Director of Planning, Community & Development                                                                                                         |
| Crown Land Management Act 2016                     | Director of Planning, Community & Development                                                                                                         |
| Disability Inclusion Act 2014                      | Council<br>General Manager<br>Director of Infrastructure<br>Director of Planning, Community & Development<br>Corporate & Community Services Manager   |
| Environmental Planning & Assessment Act 1979       | Director of Planning, Community & Development                                                                                                         |
| Food Act 2003                                      | Director of Planning, Community & Development<br>Environmental Health Officer                                                                         |
| Government Information (Public Access) Act 2009    | Corporate & Community Services Manager                                                                                                                |
| Health Records & Information Privacy Act 2002      | Corporate & Community Services Manager                                                                                                                |
| Heritage Act 1977                                  | Director of Planning, Community & Development                                                                                                         |
| Impounding Act 1993                                | Director of Planning, Community & Development                                                                                                         |
| Library Act 1989                                   | General Manager<br>Corporate & Community Services Manager                                                                                             |
| Local Government Act 1993                          | Council<br>General Manager<br>Director of Infrastructure<br>Director of Planning, Community & Development<br>Chief Financial Officer                  |
| Local Government (State) Award 2023                | General Manager<br>Director of Infrastructure<br>Director of Planning, Community & Development<br>Chief Financial Officer<br>People & Culture Officer |
| Privacy & Personal Information Protection Act 1998 | Corporate & Community Services Manager                                                                                                                |
| Protection of the Environment Operations Act 1997  | Director of Planning, Community & Development                                                                                                         |
| Public Health Act 2010                             | Director of Planning, Community & Development<br>Environmental Health Officer                                                                         |
| Public Interest Disclosures Act 1994               | General Manager<br>Corporate & Community Services Manager                                                                                             |
| Residential Tenancies Act 2010                     | General Manager<br>Corporate & Community Services Manager                                                                                             |
| Roads Act 1993                                     | Director of Infrastructure                                                                                                                            |
| Rural Fires Act 1997                               | General Manager<br>Director of Planning, Community & Development                                                                                      |
| State Emergency & Rescue Management Act 1989       | General Manager                                                                                                                                       |
| State Emergency Services Act 1989                  | General Manager                                                                                                                                       |

|                                                    |                                                                                                                                                                                                            |
|----------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| State Records Act 1998                             | Corporate & Community Services Manager                                                                                                                                                                     |
| <b>Compliance Framework Legislation/Award</b>      | <b>Responsibility</b>                                                                                                                                                                                      |
| Valuation of Land Act 1916                         | Chief Financial Officer<br>Revenue Officer                                                                                                                                                                 |
| Waste Avoidance & Resource Recovery Act 2001       | Director of Planning, Community & Development                                                                                                                                                              |
| Work Health and Safety Act 2011                    | Council<br>General Manager<br>Director of Infrastructure<br>Director of Planning, Community & Development<br>Chief Financial Officer<br>WHS Risk Advisor                                                   |
| <b>Commonwealth</b>                                |                                                                                                                                                                                                            |
| A New Tax System (Goods and Services Tax) Act 1999 | Chief Financial Officer<br>Finance Manager                                                                                                                                                                 |
| A New Tax System (Pay As You Go) Act 1999          | Chief Financial Officer<br>Finance Manager                                                                                                                                                                 |
| Disability Discrimination Act                      | Council<br>General Manager<br>Director of Infrastructure<br>Director of Planning, Community & Development<br>Chief Financial Officer<br>People & Culture Officer                                           |
| Fair Work Act 2009                                 | Council<br>General Manager<br>Director of Infrastructure<br>Director of Planning, Community & Development<br>Chief Financial Officer<br>People & Culture Officer                                           |
| Fringe Benefits Tax Assessment Act 1986            | Chief Financial Officer<br>Finance Manager                                                                                                                                                                 |
| Privacy Act 1998                                   | Council<br>General Manager<br>Director of Infrastructure<br>Director of Planning, Community & Development<br>Corporate & Community Services Manager<br>Chief Financial Officer<br>People & Culture Officer |
| National Heavy Vehicle Law                         | Director of Infrastructure                                                                                                                                                                                 |
| Native Title Act 1993                              | Director of Planning, Community & Development                                                                                                                                                              |

## Schedule 2 - Reporting Obligations

| Reporting Requirement                       | Recipient                                 | Due Date     | Responsibility                                                                |
|---------------------------------------------|-------------------------------------------|--------------|-------------------------------------------------------------------------------|
| Annual Report                               | Minister for Local Government             | 30 November  | General Manager                                                               |
| Block Grant Annual Report                   | Transport for NSW                         | July         | Director of Infrastructure<br>Finance Manager                                 |
| Building Approvals                          | Long Service Leave Corporation            | Monthly      | Director of Planning, Community & Development                                 |
| Business Activity Statement                 | Australian Taxation Office                | Monthly      | Chief Financial Officer<br>Accountant                                         |
| Cemeteries Annual Report                    | Crown Lands NSW                           | July         | Director of Infrastructure                                                    |
| Code of Conduct Statistics                  | Council<br>Office of Local Government     | 31 December  | General Manager<br>Corporate & Community Services Manager                     |
| Companion Animals Annual Report             | Minister for Local Government             | 30 September | Director of Planning, Community & Development                                 |
| Crown Land Annual Report                    | Crown Lands NSW                           | 31 October   | Director of Planning, Community & Development                                 |
| Development & Building Approvals Statistics | Australian Bureau of Statistics           | August       | Director of Planning, Community & Development                                 |
| Disability Inclusion Act Annual Report      | Department of Family & Community Services | 30 November  | General Manager<br>Corporate & Community Services Manager                     |
| Disclosure of Interest Annual Returns       | Council                                   | 30 September | General Manager                                                               |
| Financial Statements                        | Office of Local Government                | 31 October   | Chief Financial Officer<br>Finance Manager                                    |
| Financial Data Return                       | Office of Local Government                | 31 October   | Chief Financial Officer<br>Finance Manager                                    |
| Food Safety Report                          | NSW Food Authority                        | 31 July      | Director of Planning, Community & Development<br>Environmental Health Officer |
| GIPA Annual Report                          | Minister for Local Government Information | 31 October   | Corporate & Community Services Manager                                        |

|                                                                 |                                                                                         |                                  |                                               |
|-----------------------------------------------------------------|-----------------------------------------------------------------------------------------|----------------------------------|-----------------------------------------------|
| Landfill Annual Reports                                         | Environment Protection Authority                                                        | 31 August                        | Director of Planning, Community & Development |
| Mines (Quarries) Annual Reports                                 | Mines NSW (DPI)                                                                         | September                        | Director of Infrastructure                    |
| National Local Roads Data Annual Report                         | Office of Local Government                                                              | November                         | Director of Infrastructure<br>Finance Manager |
| Plan First Levy                                                 | Department of Planning                                                                  | Monthly                          | Director of Planning, Community & Development |
| Public Interest Disclosures Annual Report                       | Minister for Local Government<br>Ombudsman                                              | Six monthly                      | Corporate & Community Services Manager        |
| Return of Information on Local Roads and Bridges on Local Roads | Local Government Grants Commission                                                      | 30 September                     | Director of Infrastructure<br>Finance Manager |
| Return of General Information                                   | Local Government Grants Commission                                                      | 30 November                      | Finance Manager<br>Accountant                 |
| Roads to Recovery - Standard Annual Report                      | Department of Infrastructure,<br>Transport, Regional<br>Development &<br>Communications | 31 October                       | General Manager<br>Chief Financial Officer    |
| Roads to Recovery - Quarterly Reports                           | Department of Infrastructure,<br>Transport, Regional<br>Development &<br>Communications | January, April, July,<br>October | Director of Infrastructure<br>Finance Manager |
| Sewerage Treatment Plants Annual Report                         | Environment Protection Authority                                                        | January                          | Director of Infrastructure                    |
| Sewerage Treatment Plants Annual Report                         | Office of Water                                                                         | 31 October                       | Director of Infrastructure                    |
| State Environmental Planning Policies                           | Department of Planning                                                                  | Quarterly                        | Director of Planning, Community & Development |