

LOCAL GOVERNMENT CORONAVIRUS (COVID-19) COMPLIANCE REQUIREMENTS

Biosecurity refers to all the measures taken to minimise the risk of infectious diseases caused by viruses, bacteria or other microorganisms entering, emerging, establishing or spreading in Australia, potentially harming the Australian population, food security and economy. Some of the diseases at which biosecurity measures are directed are rare and/or serious, such as viral haemorrhagic fevers (VHFs) or severe acute respiratory syndrome (SARS).

Coronavirus (COVID-19) has been identified as an infectious disease that is subject to biosecurity measures based upon a (World Health Organisation) declared pandemic.

The Biosecurity Act 2015 (Cth) (the Act) is designed to introduce biosecurity measures and provide a contemporary, flexible and adaptive approach to managing these risks.

Local Government, as a tier of government, has a regulatory oversight role in numerous areas, including building, planning, health, community wellbeing, food safety, asset and pest/animal management. Based upon the Australian Government's activation of the Act and delegations to State/Territory governments, Local Government is under pressure to assist and manage a growing list of responsibilities and requirements related to the Coronavirus pandemic.

In most cases, this is occurring without increased resources, training or guidance in how to enforce the regulation.

The Act contains a suite of compliance and enforcement provisions which trigger the operation of the Regulatory Powers Act 2014 (Cth) and provides a framework of standard regulatory powers and uniformity of enforcement provisions across Commonwealth, State/Territory and Local Government statutes.

In a compliance and enforcement context, a risk-based approach to regulation focuses on risks associated with non-compliance with legal regulation, rather than considering the legal requirements in isolation. Assessing the likelihood and risk of breaching regulatory requirements will assist Councils to deliver better community outcomes and focus resources where they are most effective.

Specifically, Councils should identify and assess the risks associated with non-compliance with a particular obligation and based on their assessment, makes decisions regarding a range of compliance and enforcement matters. These could include decisions in respect of:

- the nature and intensity of compliance and enforcement activity warranted for each obligation within the regulatory framework;
- how resources should be deployed;
- the monitoring and information gathering mechanisms are needed;
- the regularity of audit and inspections; and
- the contents of public reporting/communication to encourage voluntary compliance.

The impact of non-compliance with a particular obligation should also be carefully considered as non-compliance may lead to either the occurrence of a significant adverse event (e.g. spread of virus, injury/death or failure of essential health service/facility) or something that will have no or very limited impact (e.g. failure to file a form within the prescribed deadline). Each decision will have consequences which is why a risk based approach should form the basis of Council's decision making.

The information in this document is general in nature and is not intended to be relied upon as advice regarding any individual situation and should not be relied upon as such.

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