

Introduction

Council is obliged to deal appropriately with alleged matters, of non-compliance and unlawful activities, which include activities prohibited or unauthorised, or contrary to the terms of a consent, licence, approval, or other legislation. Council decisions are made based on objective criteria, facts, and evidence. This means that personal biases, emotions, or external influences do not impact the outcome of decisions.

Why Your Co-Operation Is Important

Responding to and investigating complaints of unlawful works or activity consumes considerable Council resources, particularly if those involved, do not work with Council to resolve matters. Should you be notified of a compliance issue, your co-operation will assist in rectifying the non-compliance and avoid unnecessary enforcement and allow Council to focus on providing other services to the community.

Council wants to ensure that any decision regarding further action in this matter is based upon the facts. This is why we want to hear your position. Upon receipt of written information or advice from you, Council staff will:

- Review those submissions;
- Make reasonable inquiries or investigations and ensure that a decision is based upon findings of fact that are in turn based upon sound reasoning and relevant evidence;
- Act fairly and without bias in making decisions, ensuring a person doesn't decide a case in which they have direct interest;
- Conclude the investigation or address an issue with minimal delay;
- Determine what further action (including a possible fine/penalty) may be appropriate in the matter taking into account your co-operation in responding to Council's concerns.

LINKS

▶ [Richmond Valley Council](#)

▶ [NSW Planning Portal](#)

CONTACT

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02 6660 0300

Investigation

Council's investigations are conducted in a manner that is:

- Objective, fair and impartial;
- Consistent with the presumption that an alleged offender is innocent until proven otherwise;
- Within the delegated authority of the investigating officers;
- In accordance with the law; and
- Respectful of individuals.

Options For Actions

Council must determine whether there is evidence of an unlawful activity. This may take some time. If the issue is complex, Council may need to conduct more inspections, undertake monitoring, seek legal advice or consult other government agencies. If there is evidence of unlawful activity, Council staff must decide if further action is warranted. It is wrong to assume that all cases justify enforcement action.

The Council's discretion plays a key role in ensuring that decisions are both fair and impartial. While it is committed to upholding the law and enforcing relevant regulations, the Council is also guided by a principle of reasonableness and flexibility in applying those laws. In certain situations, this means that the Council may choose to take no further action or opt for a more measured response, particularly when the issue at hand is minor or has little impact on the environment or the community.

There are a range of possible outcomes or actions that Council may take to respond to concerns about unlawful activity, including:

- Referring the matter to another/relevant agency for further action.
- Counselling or educating the person investigated to educate them on the relevant requirements.
- Negotiating a resolution of the complaint between the parties or to obtain undertakings to address the issues of concern.
- Issuing a warning or caution to the offender, requiring work to be done or activity to cease in lieu of more formal action.
- Issuing a notice of intention to serve an order or notice or a notice requiring work to be done under relevant legislation.
- Taking proceedings in a relevant court for an order to remedy or restrain a breach of the relevant Act or Regulation or for an injunction.
- Issuing a penalty notice or starting legal proceedings for an offence against a relevant Act or Regulation.

For larger non-compliance matters that result in a penalty infringement notice (FINE) of \$1000 or more OR potentially go straight to legal action, the matter will be considered by Councils Compliance Panel. The panel is guided by Councils internal Compliance and Enforcement Guidelines 2024/2025 that contains a Matrix for determining the significance of a compliance issue (a breach).

Understanding Council's Response & Other Alternatives

If Council staff decide to take limited or no action in relation to a matter, you are entitled to ask for the reason(s) for that decision. It is the responsibility of Council staff to decide how a complaint is to be dealt with, how quickly, with what priority, what resources will be given to it and what will be the outcome – not the person making the complaint. If Council has made a decision and provided you with reasons for its actions, continuing to raise the matter is unlikely to result in a different outcome.

If you are dissatisfied with Council's response, and you wish to pursue the matter further, you could consider the following options:

- Referring the issue and actions and outcomes from Council's response to a body that oversees the activities of Council for review, such as the NSW Ombudsman.
- Seek to have the matter considered independently by a Community Justice Centre who provide free mediation and conflict management services to help people resolve disputes. Further details on Community Justice Centres can be found at www.cjc.nsw.gov.au.
- Seek your own legal advice and take legal action through the courts if necessary to remedy the issue.

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