

DRAFT: Version 1.0 (26 Sept 2019)

**RISK MATRIX
FLINDERS COUNCIL COMPLIANCE
CLASSIFICATION**

Escalation of Human Health or Safety and Environmental Harm (Actual or Potential)

		LEVEL 1	LEVEL 2	LEVEL 3	LEVEL 4	LEVEL 5	
		<ul style="list-style-type: none"> Non-compliance that does not result or is unlikely to result in any environmental, human health or safety impact or financial gain for the offender; or Minor administrative non-compliance. 	<ul style="list-style-type: none"> Non-compliance resulting in a minor, temporary impact to the environment or minor, temporary threat to human health or safety or limited financial gain for the offender; or Significant administrative non-compliance. 	<ul style="list-style-type: none"> Non-compliance resulting in a moderate, temporary impact to the environment or moderate, temporary threat to human health or safety or moderate financial gain for the offender. 	<ul style="list-style-type: none"> Non-compliance resulting in a significant impact to the environment or significant threat to human health or safety (may be temporary or permanent) or significant financial gain. 	<ul style="list-style-type: none"> Known or likely human health impact that is severe in effect, i.e. resulting in death or multiple deaths, hospitalization and/or long term human health consequences. 	
Categories of Likely Compliance (Compliance History/Willingness and Capacity to Comply)	CAT A (High)	<p>Indications of future and ongoing compliance are very high</p> <ul style="list-style-type: none"> No previous occurrences of non-compliance; Good demonstrated awareness of and/or capacity to meet regulatory requirement; and/or Offender has a reasonable and cooperative attitude. 	Discretionary action- Likely to take no action or advisory (information and education) or verbal warning	Discretionary action- Likely option is a phone call followed by written warning with information for compliance requirements	Discretionary action- Likely to result in written warning and issue of notice or order	Requires action- Likely to result in written warning and issue of notice or order	Requires action- Likely to result in written warning and issue of notice or order
	CAT B	<p>Indications of future and ongoing compliance are uncertain</p> <ul style="list-style-type: none"> Few previous occurrences of non-compliance; and/or Questionable awareness of and/or capacity to meet regulatory requirement. 	Discretionary action- Likely option is a phone call followed by written warning with information for compliance requirements	Discretionary action- Likely option is a phone call followed by written warning with information for compliance requirements	Discretionary action- Likely to result in written warning and issue of notice or order	Requires action- Likely to result in written warning and issue of notice or order	Requires action- Likely to result in written warning and issue of notice or order
	CAT C	<p>Indications of future and ongoing compliance are unlikely</p> <ul style="list-style-type: none"> Numerous previous occurrences of non-compliance; and/or Little or no awareness of and/or capacity to meet regulatory requirement. 	Discretionary action- Likely to result in written warning and issue of notice or order	Discretionary action- Likely to result in written warning and issue of notice or order	Discretionary action- Likely to result in written warning and issue of notice or order	Requires action- Likely to result in written warning and issue of notice or order	Requires action- Like to result in Legal Action/ Criminal proceedings. May require council to undertake works and recover costs.
	CAT D	<p>No indication of future and ongoing compliance</p> <ul style="list-style-type: none"> Willful violation of council regulatory requirement; and/or Little or no demonstrated willingness or capacity to meet regulatory requirement. 	Discretionary action- Likely to result in written warning and issue of notice or order	Discretionary action- Likely to result in written warning and issue of notice or order	Requires action- Likely to result in written warning and issue of notice or order	Requires action- Like to result in Legal Action/ Criminal proceedings. May require council to undertake works and recover costs.	Requires action- Like to result in Legal Action/ Criminal proceedings. May require council to undertake works and recover costs.
	CAT E (Low)	<p>Indications of obstruction and ongoing or future non-compliance</p> <ul style="list-style-type: none"> Hindering or obstructing a council official; Refusing to furnish required information; and/or Intentionally including false or misleading information in any required document. 	Discretionary action- Likely to result in written warning and issue of notice or order	Discretionary action- Likely to result in written warning and issue of notice or order	Requires action- Likely to result in written warning and issue of notice or order	Requires action- Like to result in Legal Action/ Criminal proceedings. May require council to undertake works and recover costs.	Requires action- Like to result in Legal Action/ Criminal proceedings. May require council to undertake works and recover costs.

	Discretionary action taken by council
	Council must act

NOTES: Prosecution and Related Enforcement Actions

With the consistent focus of Council's compliance and enforcement activities on outcomes, Council will typically only consider a prosecution or related enforcement action where:

- there is or was serious risk of harm – including serious public health and safety and environment impacts
- after being given adequate opportunity to take corrective action, the action taken is insufficient
- the culpability of the offending warrants this action as a deterrent e.g. repeated wilful noncompliance
- legislation requires this response.

Decisions to proceed with prosecution need to consider:

- adequacy of evidence
- likelihood of success
- strategic importance of the case
- risk
- legislative backing