

O1-P Enforcement Procedure

Purpose	To provide the guidelines by which Council's authorised Permit Authority will implement the Enforcement Policy.
Department	Development Services
File No.	ADM/0900
Council Meeting Date	16 November 2021
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Next Review Date	11.2024
Review History	

1. Introduction

The following forms the procedure to be undertaken when dealing with the nature of enforcements. It is to be noted that will limited staffing, Council will prioritise workload in accordance with achievable outcomes and the risk matrix, as annexed to Council's Enforcement Policy.

Strict confidentiality is to be maintained at all times. When a Council Officer involved in matters of enforcement provides advice to Council, it must be noted that all matters are of a confidential nature and may not be freely discussed by Council Officers or Councillors.

2. Procedure

- 2.1. All complaints, regarding alleged or suspected illegal works or other enforcement issues, must be received in writing and should be accompanied by supporting documentation.
- 2.2. Allegations received in writing must be responded to in writing to confirm that the correspondence has been received.
- 2.3. Illegal works or other enforcement issues may be identified by Council's Authorised Officer in the course of their duties.
- 2.4. Confidentiality between Council's Authorised Officer and the landowner/agent must be maintained regarding all matters related to the allegations or suspicions.
- 2.5. When dealing with a building related matter:
 - (a) Council's Permit Authority will issue a Building Notice, in writing, to a landowner, with regard to suspected illegal works alleged to be occurring on the person's land; and
 - (b) Council's Permit Authority will document the reason/s why a Building Notice is issued.
 - (c) Council's Permit Authority will ensure that Council is updated regularly on matters of illegal building works that are currently under investigation.
- 2.6. Timeframes, agreed to in writing between the Authorised Officer and the landowner/agent, should be adhered to, or may result in infringement.

2.7. Councillors may seek clarity of any matter by request via the General Manager.

2.8. In accordance with Council's Enforcement Policy, an Authorised Officer may use the following compliance options (including a combination thereof) to achieve an appropriate outcome for breaches of legislation:

- Provide time to the alleged offender to take the necessary action to legalise any activity in breach of legislation;
- Take no action;
- Educate or counsel the alleged offender;
- Issue a First and/or Final Warning;
- Issue an Improvement Notice
- Issue an Infringement Notice;
- Issue a Notice;
- Issue an Order; and/or
- Commence legal proceedings, so long as prosecution for the particular offence or enforcement action is available under the relevant legislation.

3. Related Legislation, Regulations and Policies

Local Government Act 1993

Building Act 2016

Food Act 2003

Environmental Management & Pollution Control Act 1994

Land Use Planning & Approvals Act 1993

Enforcement Policy

4. Responsibilities

It is the responsibility of the General Manager and the Authorised Officer that this procedure is adhered to.