

DRAFT COMPLIANCE AND ENFORCEMENT POLICY

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1. Introduction

This Compliance and Enforcement Policy informs the approach to compliance and enforcement taken by Northern Beaches Council (Council) and its delegated officers. Council as a regulatory authority takes a risk-based approach in exercising its discretionary powers to undertake enforcement action to address matters of public safety or environmental harm.

Council supports the assistance of the community in reporting issues of concern and seeks to work collaboratively with the community to achieve fair, balanced, and proportionate compliance outcomes.

The *'Enforcement Guidelines for Councils, December 2015'* and the *'Model Compliance and Enforcement Policy, December 2015'* both issued by the NSW Ombudsman, have guided the development of this Policy.

2. Purpose and scope

This Policy explains the rationale upon which Council undertakes its compliance and enforcement activities to achieve positive public and environmental safety outcomes. Any decision taken by Council to pursue informal or formal enforcement action is based on the significance of risk posed by the activity to public safety and/or the environment. This Policy explains how we determine our priorities, allocate resources, and make decisions to achieve reasonable and defensible regulatory outcomes for the benefit of the community.

The Policy applies to all delegated employees of Northern Beaches Council with responsibility for investigating regulatory and enforcement concerns under legislation which Council has powers to enforce.

This Policy does not apply to parking control as Penalty Infringement Notices are generally issued on the spot and under the *Fines Act 1996*, and Revenue NSW is the administrative authority to conduct internal reviews of representations made in relation to Penalty Infringement Notices issued for parking and traffic matters.

This Policy outlines the matters to be considered during an investigation from the initial receipt of a customer query to the investigation, the decision whether to take enforcement action, and the options available when a concern is not addressed or rectified.

Guidance is also provided on the role of Council in building and construction compliance matters where a private certifier is involved, as well as the role of the elected Councillors.

3. Responsibility

All Council staff who receive and respond to reports regarding enforcement and compliance matters are to abide by the principles of this Policy. Council staff authorised by the Chief Executive Officer to undertake these functions, include Environmental Health Officers, Building Surveyors, Building Compliance Officers, Rangers and other Authorised Officers.

4. Managing enquiries relating to compliance and enforcement

Council receives enquiries from the community in relation to allegations of illegal use, unauthorised or non-compliant works, pollution concerns, or unhealthy or unsafe conditions.

Each customer concern is managed in three (3) stages. These stages include:

- 1) Preliminary assessment;
- 2) Investigation, and where necessary:
- 3) Enforcement

All enquiries are managed using a risk-based approach and are triaged to determine their priority/urgency. This assists in prioritising resources to address critical matters promptly, and informs the type of compliance necessary based on the degree of risk and harm the issue is presenting to the environment or human health.

Matters identified as greatest risk (urgent/high), will be actioned as a priority. Matters that present as medium to low risk will be investigated as resources permit. In these instances, Council staff will communicate an anticipated timeframe of an investigation to the customer.

A risk matrix is provided within the Compliance Enforcement Guidelines to assist Council Officers in prioritising customer enquiries, however in general, the following prioritisation is given to matters raised with Council:

PRIORITY / RISK	NATURE OF ENQUIRY
Urgent	<ul style="list-style-type: none"> • Major water pollution incident • Imminent threat to public health or safety • Incidents relating to unauthorised asbestos removal or dumped asbestos • Major sewer blockage/leak • Major flooding • Food poisoning outbreak • Legionella outbreak • Unauthorised demolition of a heritage item or building in a heritage conservation area • Dog attack • Land clearing and/or removal of trees • Unsafe or dangerous structures adjacent to public land, for example awnings over footpaths

High	<ul style="list-style-type: none"> • Building safety • Fire safety • Swimming pool safety • Public health and safety • Unauthorised development (significant impact or in progress) • Significant tree removal • Food safety • Single food poisoning incident • Significant noise pollution incident
Medium	<ul style="list-style-type: none"> • Construction site management • Unauthorised development (general) • Food non-compliances (minor) • Noise complaints • Air or water quality • Abandoned vehicles • Stormwater drainage • Animal control (general) • Waste dumping • Trees (already removed)
Low	<ul style="list-style-type: none"> • Animal nuisances • Unauthorised development (minor nature or historical) • Overgrown vegetation • Noxious weeds • Noise complaints (minor) • Health and amenity (minor) • Waste storage • Neighbour nuisances • Minor issues, technical or administrative breaches • Signage

Council staff will:

- Consider matters in accordance with relevant legislation, policies and procedures.
- Make reasonable enquiries or investigations before a decision is made, including seeking information from the property owner where appropriate
- Consider all submissions made about the matter.
- Treat all relevant parties with courtesy and respect.
- Communicate with all relevant parties and provide feedback on the progress of an investigation and any reasons for delay without compromising the integrity of the investigation.
- Make full and proper records in relation to the assessment and investigation of reports alleging unlawful activity, including reasons for any decisions.
- Inform all relevant parties of the reasons for decisions made in relation to an investigation.
- Upon request provide information to all relevant parties about any avenues to seek an internal or external review of a decision.
- Act fairly and without bias.

4.1 What Council expects from complainants

When raising reports to Council for investigation, it is preferable for reports to be accompanied by any relevant information about the alleged unlawful activity or incident such as photographs, as well as any information on the impacts or harm arising from the activity.

Reports, as well as the name, address and contact details of the person submitting the report (the complainant) will be recorded on Council's information management system. This information is important as Council may need to rely on evidence from the person to prove any alleged offence when undertaking enforcement action.

Any personal information relating to complaints is kept confidential, unless

- the disclosure is necessary to investigate the matter,
- the identity of the complainant has already been disclosed to the subject of their report or in a publicly available document,
- the individual was consulted following receipt of a *Government Information (Public Access) Act 2009* application and did not object to the disclosure,
- the complainant consents in writing to their personal information being disclosed,
- the disclosure is required to comply with principles of procedural fairness,
- the matter proceeds to Court, or
- disclosure is otherwise required by law, including for example as a result of a subpoena, notice to produce or as a result of an application under the *Government Information (Public Access) Act 2009*.

Except in the case of urgent matters, reports or concerns relating to privately-owned premises are encouraged to be provided in writing, to enable the investigating officer to better understand the issues, to determine whether the matter falls within Council's jurisdiction and whether the matter warrants investigation, to gather evidence and to facilitate a full and proper investigation of the matter.

Council expects complainants to cooperate with the investigating officer and act in good faith in respect of any investigation conducted by Council. This includes:

- Treating Council's staff with courtesy and respect.
- Providing a clear description of the problem, and/or impacts resulting from the incident or activity.
- Provide sufficient supporting information to verify and validate the concerns raised.
- Providing all available and relevant information to Council, including any new information about the alleged activity that may become known to the person following the making of their report
- Not giving any information that is intentionally misleading or wrong.
- Cooperating with Council's inquiries and giving timely responses to questions and requests for information.
- Allowing the investigation to be completed without prematurely taking the matter to other agencies unless referred to by Council.

- Depending on the nature of the incident or activity being addressed, the customer may be required to provide a statutory declaration to confirm any evidence witnessed or indicate their willingness to attend court if required. Customers may also be required to provide evidence by way of witness statements and a record of any observations such as a noise diary. In some instances, it may not be possible to proceed with an investigation without sufficient evidence.

Any unreasonable conduct by customers may be dealt with under the NSW Ombudsman Policy [‘Managing unreasonable conduct by a complainant’](#).

4.2 Preliminary Assessments

Upon receipt of an enquiry in relation to a breach or non-compliance, Council’s officer will undertake a preliminary assessment of the matter to determine next steps.

A preliminary assessment is undertaken of each customer request to attribute a risk rating, as well as to determine if a detailed investigation is required into the concern.

Reports of unlawful activity will be processed in the order in which they are received, irrespective of the source of the report, and prioritised according to the risk associated with the activity. Priority will be given to matters that pose serious risks including matters which are life threatening, or pose serious risk to health or are associated with significant environmental harm or repeatedly detrimentally affect a significant number of people.

If there is insufficient information within the report to undertake a preliminary assessment, further information may be sought from the person who made the report. Without sufficient information Council, may not be able to progress the matter.

The preliminary assessment will take into account the following matters.

1. Has the customer provided sufficient information?
2. Whether Council has jurisdiction to act, including whether Council is the appropriate regulatory authority or consent authority.
3. Does the request relate to a civil matter?
4. Does the request relate to a potential future breach, not yet apparent?
5. Is the allegation unfounded, trivial, frivolous or vexatious?
6. Has the matter already been dealt with? Does the report relate to a matter previously investigated and determined by Council and no new or compelling information is presented which would cause Council to amend its earlier decision.
7. Is the report preemptive, because it relates to some unfinished aspect of work that is still in progress?
8. Does the matter relate to works which are being undertaken under an approval, permit or development consent?
9. Determination of the immediate priority and risk rating to be given to the request.

The preliminary assessment informs whether the complaint or request should proceed to a formal investigation, and the investigating officer will provide the customer with an update at this stage.

Some investigations may take some time to complete, particularly where the investigation or issues are complex or where applications may be submitted to council for consideration (e.g. an application for Building Information Certificate, or development consent). It is important to note that often complex compliance matters cannot be resolved promptly, particularly if formal investigation and enforcement action is taken.

Once a formal investigation has been commenced, the investigating officer will, where appropriate, update the complainant at key stages of the investigation.

Where a decision is made not to take any further action, the investigating officer will provide a written update to the complainant, providing reasons for the decision. Additionally, where there are alternate remedies available to the customer to resolve a matter such as options for private action or alternative dispute resolution options, these will be provided to the customer where possible.

Due to the need to preserve the integrity of the investigation so as not to compromise any prospective enforcement action and to afford procedural fairness to the person who is the subject of the investigation, it is not possible to provide details of a live investigation until the investigation is finalised.

4.2.1 Determining jurisdiction

Council will take no further action if, following a preliminary assessment, it is identified that Council does not have jurisdiction to investigate the matter or is not the appropriate regulatory authority to address the concern raised.

Where there is another appropriate authority, Council will either bring the matter to the attention of that authority or provide the customer with any relevant information to assist.

Other Regulatory Authorities may include:

1. SafeWork NSW for workplace safety matters, asbestos in work related settings and some instances of construction noise from building sites.
2. NSW Environment Protection Authority for major pollution incidents, matters relating to works being carried out by a public authority or involving a site licensed by the NSW EPA.
3. Community Justice Centres NSW for disputes which may require a mediated outcome.
4. NCAT (NSW Civil and Administrative Tribunal) for disputes between neighbours on a range of matters. NCAT also manage disputes regarding Strata Schemes.
5. NSW Fair Trading for concerns regarding the conduct of private certifiers, builders, real estate agents, tenancy matters and Strata Schemes.
6. NSW Courts for boundary fence disputes, disputes relating to private trees, civil matters, and private actions.
7. NSW Police Force for matters relating to personal safety, property damage, CCTV etc.

4.2.2 Circumstances where no action may be taken

Council will take no further action if, following a preliminary assessment, it is identified that:

1. Council does not have jurisdiction to investigate or is not the appropriate authority to take action on the issues raised.
2. The report relates substantially to a matter previously investigated by Council, and there is no new or compelling information or evidence which would cause Council to change its earlier decision. In this case, staff will acknowledge the report and advise the customer that no further action will be taken as no new information has been provided as appropriate.
3. The allegations relate to a lawful activity (e.g. where there is an existing approval or the activity is permissible as exempt development or without Council approval or consent being required).
4. The matter is a neighbour dispute which can be resolved between the parties or through mediation or civil proceedings.
5. There is insufficient information or evidence to enable an investigation to be carried out.
6. The complaint is considered to be trivial, frivolous, vexatious or of a retaliatory nature.
7. Council determines that an investigation or other action is not in the public interest or would have an unreasonable impact on resources and/or is unlikely to achieve an outcome sufficient to justify the expenditure of resources.

4.2.3 Role of Private Certifiers

The 'certification' of development in NSW is carried out by principal certifying authorities (PCAs), generally known as certifiers. Certifiers and principal certifiers can be private entities or employed by Council.

A certifier is appointed by a property owner to act as the principal certifier for a development or to undertake an inspection of a swimming pool barrier under the provisions of the *Swimming Pools Act*.

Council retains its regulatory role and enforcement powers where a private certifier has been appointed, however, it is primarily the responsibility of the certifier engaged by the property owner to ensure building and construction compliance for building works.

Reports relating to development compliance (i.e. alleged non-compliance with a development consent or a complying development certificate) should be referred directly to the appointed principal certifier for investigation and appropriate action.

Generally, matters relating to 'off-site' environmental or amenity impacts (i.e. pollution incident, breach of working hours, urgent or public safety matters) may be referred directly to Council for investigation. In the case of an emergency or urgent matter, the report may be provided to Council and the certifier, to facilitate a prompt investigation of the matter.

Council and the certifier will work together to resolve any issues when they arise to achieve compliance with the development consent or complying development certificate.

Private accredited certifiers are regulated by NSW Fair Trading, who are also responsible for the investigation of complaints concerning the conduct of private certifiers.

Local Councils generally do not carry out assessments or proactive audits of construction certificates, complying development certificates, occupation certificates or other certificates issued by private certifiers, and any enquiries or concerns regarding these instruments should be referred directly to the certifier for response. All accredited certifiers are subject to the [NSW Fair Trading Code of Conduct](#) and a complaint can be made to NSW Fair Trading if the certifier is in breach of the Code or other regulatory provisions.

Councils also do not have the authority to review or change the determination of a Complying Development Certificate (CDC). The validity of a CDC may only be challenged in the Land & Environment Court NSW. Any queries and concerns relating to complying development should be referred to the relevant accredited certifier for response. The accredited certifier has an obligation to investigate the matter and to take appropriate action.

Further information on Council's position on managing complaints in relation to Certifiers is provided in the Compliance and Enforcement guidelines.

4.2.4 Anonymous enquiries

Anonymous reports will be recorded and assessed under the above requirements. Due to the challenges in seeking clarification or additional information about a matter, it may be more difficult to evaluate the allegations and therefore it may not be possible to progress an anonymous complaint.

4.2.5 Neighbour disputes

Council is unable to take action or intervene in disputes relating to the activities or behaviours which are of a private or civil nature e.g. dividing fence or retaining wall disputes, trespass, encroachments, damage to private premises or actions resulting from the behaviour of a person.

Council also has limited authority and resources and is unable to intervene in disputes which:

- are related to conduct or actions of persons (e.g. rude or aggressive behaviour, trespass, vandalism or deliberate actions aimed at annoying or disturbing neighbours)
- are of a minor, trivial, infrequent or inconsequential nature
- are principally related to a private nuisance, dispute or matter between neighbours or other parties
- do not have a material impact upon other parties
- relate to 'tit-for-tat' neighbour complaints of a minor, technical or historical nature
- can be addressed through other dispute resolution processes (e.g. Strata by-law disputes, Community Justice Centres or civil proceedings)
- relate to matters that can be resolved between the parties via mediation or other legislation (e.g. access to neighbouring lands, dividing fences, encroachments, alleged damage to premises or other activities)
- relate to private easements, rights-of-way or other restrictions on private property
- would have an unreasonable impact upon Council's resources. These matters should be resolved between the parties directly or through mediation or civil proceedings.

The NSW Community Justice Centres provide mediation services to resolve disputes where Council is unable to assist. For more information visit www.cjc.justice.nsw.gov.au.

4.3 Investigating concerns

Where a determination has been made to formally investigate an enquiry raised with Council, the matter will be assigned to an Investigating Officer.

The Investigating Officer is responsible for finding out all the relevant facts about a request. This task will be done in an impartial, independent, and objective manner.

The Investigating Officer may perform the following steps as part of the investigation:

- Conduct a site inspection to view the concerns raised.
- Gather evidence to the required standard to support any required enforcement action. This could include taking photographs, videos, measurements etc.
- Undertake a detailed search of Council records to determine if there is a history of concerns raised and whether any approvals have been issued.
- Determine the age and history of any works or concerns. This is critical to the investigation as Council needs to establish how much time has elapsed since the works were completed or how long an issue has been in existence. Where works or issue has been in place for an extended period, the ability for Council to take action may be limited as we may not be able to obtain specifics of the offence.
- Determine the extent of any impacts caused by the activity or incident.
- Determine the cause of the incident
- Seek expert advice on technical matters
- Gather evidence to establish the person responsible for the offence.

The investigation phase is complex and will require an extended period of time for the Investigating Officer to complete the relevant steps. During this phase, it is likely not possible for regular updates to be provided as information regarding a live investigation is confidential.

4.4 Decision to take Enforcement Action

Following an investigation, Council will determine if enforcement action is required to remedy a breach or non-compliance. There are a range of options available, depending on the nature and extent of the alleged offence or breach, relevant legislative provisions, available evidence, circumstances of the case and the outcome or remedy being sought.

When determining whether to take enforcement action and the level of enforcement action appropriate, Authorised Officers will consider all the circumstances of the case including:

- the seriousness of the breach, including whether the breach is merely technical or “trivial” in nature.
- the currency of the breach, for example is the breach continuing or has it stopped and/or been remedied.
- the level of harm or potential harm to the environment or public health, safety or amenity caused by the unlawful activity and whether that harm is ongoing.
- the need for general and specific deterrence.
- whether the breach can be easily remedied.
- any particular circumstances of hardship affecting the complainant or the person who is the subject of the complaint.
- the statutory time limits within which certain enforcement proceedings must be commenced. Sometimes legal action may be statute barred despite good evidence that unlawful activity has occurred.

The range of enforcement options are explained below.

No Action	<p>Council may choose not to take enforcement action in the following circumstances:</p> <ul style="list-style-type: none"> • Where an investigation does not identify sufficient evidence of a breach. • Where the issue of concern is a civil matter or not a matter for which Council is an appropriate regulatory authority. • Where the public interest in pursuing enforcement action is low Council may take no further action. This would occur in the case of very minor breaches or matters of an administrative nature where there is no actual harm.
Informal Action	<ul style="list-style-type: none"> • Warning or advisory letter – The purpose of such a letter is to encourage future compliance and caution that further action may be taken if considered necessary • Negotiation – Council may negotiate a positive outcome with written confirmation of commitments made • Informal undertaking – Council seek an undertaking that corrective action will be taken within a specified timeframe

Formal Action	<ul style="list-style-type: none"> • Fine – Council may issue fines for offences listed in the Fixed Penalties Handbook • Notice/Order – Council is empowered to issue Orders in appropriate circumstances requiring certain things to be done to achieve compliance • Court Order – Council can initiate proceedings seeking an Order from the Court requiring certain things to be done to achieve compliance with the law. • Criminal prosecution or civil proceedings – Council can initiate criminal or civil proceedings in the Land and Environment Court or the Local Court.
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The above enforcement options are not necessarily mutually exclusive. For example, in some circumstances it may be appropriate to concurrently issue an Order as well as issue a fine. Further, a graduated enforcement response may not be justified in circumstances where action is sought to resolve a critical safety concern or to avoid a decline in environmental quality.

Any decision to take formal enforcement action must also be:

a) Evidence based

Any formal enforcement action will be based upon an objective investigation process and identification of sufficient evidence to prove an offence to the required standard of proof.

b) Proportionate

Any enforcement action will be in the public interest, and be proportionate to the level of harm, the risk posed to the community and/or the environment, the seriousness of the non-compliance and the culpability of the offender.

- making cost-effective decisions about enforcement action
- taking action to address harm and deter future unlawful activity.

c) Effective and efficient

Compliance and enforcement activities will utilise evidence from a range of sources and applied in a timely manner to obtain the best outcomes for the environment and the community and maximise the effectiveness of any deterrence.

d) Transparent

Compliance and enforcement expectations will be clearly explained to all parties and any formal enforcement action will be undertaken based on an objective, evidence based decision-making process.

e) Certain and consistent

Compliance investigations will be conducted in a fair, efficient and consistent manner to ensure the public has confidence Council's application of its regulatory powers, and relevant parties know what to expect through the course of an investigation.

f) Ethical and accountable

The conduct and behaviours of Council's officers will always be in accordance with the Northern Beaches Council Code of Conduct.

g) Balancing of public interest and cost to Council

Council will weigh up the public interest or benefits that will be served against the cost to the Council, and the community, of taking enforcement action.

In considering the 'public interest' Council will have regard to whether the unlawful activity:

- will impact on a significant number of people;
- will impact on disadvantaged or marginalised groups;
- is indicative of a systemic flaw;
- is individual in nature but often occurs;
- has attracted sustained public attention and no alternative resolution is proposed or likely; and
- significantly undermines the integrity of the relevant regulatory provisions.

h) Whether there is a reasonable prospect of success

Council will consider if there is a reasonable prospect of success before a court. In making this assessment, Council staff will consider the availability, competence and credibility of witnesses, the admissibility of evidence, all possible defences and any other factors which could affect the likelihood of a successful outcome.

In some cases where Council has undertaken enforcement action, a person may submit an application to the Council to seek approval or consent to regularise the activity or works which commenced or was carried out without approval. Where an application is received, enforcement action is generally placed on hold pending the determination of the application.

If an application is approved, Council may be unable to take any further action if the subject of the initial concern is considered resolved however, if an application is not approved then enforcement action will continue.

5. Discretion

The taking of enforcement action by Council and its officers is a discretionary power. This means that, whilst Council is provided with the authority to enforce a law, this does not mean that there is a legal obligation to do so, not even at the insistence of a third party.

When exercising discretion, Council officers are obliged to:

- use discretionary powers in good faith, including for the intended and authorised purpose;
- base their decisions on facts and findings supported by evidence, only relevant considerations and not irrelevant ones;
- give proper, genuine and realistic consideration to the merits of the case, including weighing-up the importance of relevant factors;
- exercise discretion independently and not under the direction of a third party or body;
- make decisions in accordance with relevant rules or policies but not inflexibly; and
- observe the basic rules of natural justice and procedural fairness.

The decision to pursue regulatory action will also be made impartially and will not be influenced by any inappropriate reference to race, religion, sex, national origin or political association, nor will it be influenced by matters that are of a civil nature or a private dispute.

6. Dissatisfaction with investigation outcomes or conduct of Council staff

All Council Officials, including staff, Councillors and contractors, are expected to follow Council's Code of Conduct. This code is prescribed by regulation and sets out the minimum requirements of conduct.

Any allegations regarding the conduct of staff for the management of compliance and enforcement enquiries will be managed by Council's Complaints Resolution team. A complaint against a staff member in breach of the code or report other unacceptable behaviour can include:

- Inappropriate behaviour
- Breach of privacy
- Providing false or misleading information
- Recklessly or deliberately damaging property
- Fraud and Corruption
- Breach of powers

A complaint can be submitted online by using Council's ['Complaint Form'](#).

If a person is disputing a determination made by Council on the management of their enquiry, this can also be raised as a complaint with Council using the same complaint form. These matters may be referred to the relevant Business Unit for review, consideration and response.

7. Role of Councillors in enforcement

Decision making relating to the investigation of reports alleging breaches of legislation and taking enforcement action is the responsibility of appropriately authorised Council staff.

Individual elected Councillors cannot direct Council staff in their day-to-day activities. Councillors may assist members of the community who raise concerns with them by satisfying themselves that Council's policies are being carried out correctly, however they cannot ignore or alter a Policy in order to satisfy the demands of individuals or special groups.

The Chief Executive Officer may present certain decisions to be ratified by the elected Council if this is necessary or desirable, and the Councillors may also call for a report about particular issues to a Council Meeting.

8. Authorised Officers

8.1 Delegations

Council staff delegations for taking action under this Policy are included in Council's Delegation Register.

8.2 Identification and Authority

Each Council Officer is required to carry identification. This is a written authority setting out the Acts under which they are authorised.

8.3 Powers of Authorised Officer

Each Act sets out the powers of authorised officers. Council's officer will employ different powers under each Act and in some cases may enter premises and undertake investigations utilising powers under several Acts.

These powers include but are not limited to:

- Powers of entry (and notice requirements where applicable)
- Inspection and investigation powers,
- examine and inspect any works, plant or other article,
- take and remove samples,
- make such examinations, inquiries and tests as the authorised officer considers necessary,
- take such photographs, films, audio, video and other recordings as the authorised officer considers necessary,
- require records to be produced for inspection,
- examine and inspect any records,
- copy any records,
- seize anything that the authorised officer has reasonable grounds for believing is connected with an offence against this Act or the regulations,
- Issuing a Penalty Infringement Notice (PIN),
- Issuing a Court Attendance Notice (CAN),
- Commencing legal proceedings

9. Relevant Legislation

This policy applies to the enforcement of all Acts and their associated Regulations, Standards and Rules administered by Council, including, but not limited to:

- Local Government Act 1993
- Environmental Planning and Assessment Act 1979
- Food Act 2003
- Protection of the Environment Operations Act 1997
- Public Health Act 2010
- Boarding Houses Act 2012
- Swimming Pools Act 1992
- Companion Animals Act 1998
- Roads Act 1993
- Road Transport Act 2013
- Public Spaces (Unattended Property) Act 2021
- Biosecurity Act 2015
- Contaminated Land Management Act 1997
- Crown Land Management Act 2016
- Fines Act 1996
- Heavy Vehicle National Law (NSW)

10. Definitions

Term	Definition
Authorised Officer	Employee authorised under legislation and by internal delegations to carry out compliance action on behalf of Northern Beaches Council.
Unlawful Activity	<p>Unlawful activity – this expression includes any activity or work that has been or is being carried out contrary to the law, as well as any state of affairs where there has been or is a failure or unpreparedness to take action so as to be compliant with the law, as more fully described below:</p> <ul style="list-style-type: none"> • a contravention, breach or non-compliance with conditions of a development consent, approval, permit or licence • a contravention, breach or non-compliance with an Act, regulation, environmental planning instrument or other instrument that controls and regulates the activity, work or state of affairs • a failure to obtain any required development consent, approval, permit or licence in respect of the activity, work or state of affairs • any other actionable contravention, breach or non-compliance with the law pertaining to one or more of the matters falling within the scope and operation of this Policy. <p>and includes any activity, place or structure which is a risk to public health and safety but excludes any parking or traffic offences, which are dealt with in accordance with the Road Rules 2014 (NSW).</p>
Report of unlawful activity	An expression of concern or a request for service about an alleged unlawful activity where a response or resolution is explicitly or implicitly expected or legally required.

11. Other resources

The NSW Ombudsman website has the following helpful resources at www.ombo.nsw.gov.au:

- Managing unreasonable conduct by complainants Model policy, July 2022
- [*Effective complaint handling guidelines – 3rd edition*](#)
- [*Good Conduct and Administrative Practice - Third edition, March 2017*](#)
- Options for Redress
- *Enforcement guidelines for Councils, December 2015*

See also:

- [*Commonwealth Director of Public Prosecutions \(2021\), Prosecution Policy of the Commonwealth: Guidelines for the making of decisions in the prosecution process*](#)
- NSW Planning, Industry and Environment (2021), *Prosecution Guidelines*.

12. Responsible Officer

Executive Manager Environmental Compliance

13. Review Date

September 2027

14. Revision History

Revision	Date	Status	TRIM Ref
1	2 May 2023	Draft Northern Beaches Council Compliance and Enforcement Policy for public exhibition.	2023/282227