

Information for Planning Compliance Customers

Local government regularly interacts with individuals, communities and businesses to uphold local and state laws. Councils have many departments that undertake compliance activities. In Surf Coast Shire, Environmental Health, Local Laws, Building as well as Planning Compliance all respond to community requests to investigate and help resolve concerns of non-compliance.

The planning compliance investigations team recognises that asking for a compliance service, or responding to a request from a compliance officer, is not a usual experience for an individual. There are nearly 200 planning investigations each year as a result of concerns being raised to Council or observations by Officers when patrolling or following up on permits.

Planning Compliance Officers

The role of a local government Planning Compliance Investigation Officer is to help our community to comply with the requirements of the Surf Coast Planning Scheme.

This involves investigation, research and communication with the community to achieve compliance with the planning scheme, planning permit or Agreement.

Officers operate under the *Planning and Environment Act 1987* (the Act), however legislation, such as the *Evidence Act* and *Privacy and Data Act*, influence how an investigation is performed.

Officers undertake investigations according to the Planning Compliance Investigation Standard Operating Procedure (SOP), Council's Compliance and Enforcement Protocol and the Act. Whilst a Planning Investigation Officer keeps customers updated about the progress of an investigation, they are unable to share any specific details.

Planning Compliance Customers

Anyone who contacts the Planning Compliance team with a concern about a land use or development is our customer.

Our customers are also people we contact during the investigation process. This may be land owners, land occupiers, neighbours, witnesses, experts and specialists, other Council departments or State government agencies.

To simplify this, those who request an investigation are referred to as "requestors". People who have to respond to Council action in the investigation (usually the land owner) are referred to as the "responder".

For Requestors:

Compliance means following the law by having the right approvals or permissions. Compliance is the responsibility of businesses, organisations, government and individuals.

Non-compliance is the term used when the use of land, buildings or works do not comply with planning laws that are applicable to the land.

When reporting suspected non-compliance, it is helpful to include the following information:

- Your name and address
- Your email and phone number
- The address of the land where the suspected non-compliance is occurring
- The nature of the use, works or buildings that are thought to be non-compliant
- How long the non-compliance has been observed

The responsibilities of a requestor

- Clearly identify the issues of concern
- Provide all relevant information to the best of your ability and at the earliest opportunity
- Cooperate with any requests for information, inquiries or investigations
- Act honestly; and

- Treat the people handling your complaint with courtesy and respect.

All reports are confidential. You can choose to make a report anonymously, however we will be unable to let you know the outcome of the investigation if you don't provide contact details.

The Planning Compliance process

Planning investigations take varying periods of time to resolve. The majority will take several weeks or months to complete. The objective of every investigation is to bring any instances of non-compliance back into compliance. There are several different pathways an investigation can take. The willingness of the land owner to comply, the need for expert assessment, and sometimes obtaining legal advice are the most common reasons an investigation may take a more complex pathway and additional time.

Around 80 % of planning investigations are resolved within 6 months. Some take longer but they are the more difficult cases.

Surf Coast Shire undertakes compliance and enforcement according to the following principles:

Principle 1: We will be accountable and transparent

Principle 2: We will treat people fairly

Principle 3: We will have a consistent approach

Principle 4: Our response is proportional

Principle 5: Our response is timely

When the compliance team receives a request for an investigation they will:

- Register the request.
- Register the details of the person making the request.

- Email you an acknowledgment letter. This includes a unique planning compliance identification number for your reference.
- Undertake a desktop assessment of the site.

During an investigation the officer will:

- Establish the facts to determine if there is a non-compliance
- Speak with the land owner or occupier and any witnesses
- Seek permission or give notice to enter the site
- Seek the cooperation of the land owner to rectify the issues of non-compliance
- Follow the enforcement pathway if cooperative compliance cannot be achieved
- Not divulge any details of the investigation
- Prepare an investigation report, including documenting all phone calls, emails, text messages and site inspection observations

During an investigation the officer may:

- Seek expert advice or assessment
- Seek legal opinion
- Refer the matter to the Manager Planning and Development
- Ask requestors to make a formal statement for use during legal proceedings
- Issue the land owner with a Notice to Comply
- Issue the land owner with a Penalty Infringement Notice
- Refer the matter to Council's legal team and proceed to VCAT

When the investigation is closed the investigation officer will:

- Ring you to let you know the result
- Send you a letter confirming the result outlining the outcome of the investigation.

For Responders:

Compliance means following the law by having the right approvals or permissions for any land use or development. Compliance is the responsibility of businesses, organisations, government and individuals.

Non-compliance is the term used when use, buildings or works do not comply with the laws that are applicable to the land.

What to expect from a Planning Compliance Investigation

On average, Council receives 20 community reports of non-compliance each month. Our approach is to always work cooperatively with land owners to investigate and rectify non-compliance.

The investigation process

- 1:** The Planning Investigations Officer will contact you, explain the nature of their contact and provide you with their contact details
- 2:** The Investigator will undertake various assessments to establish facts and determine if there is a non-compliance
- 3:** The Investigator will outline the measures to be undertaken to rectify any non-compliance
- 4:** The respondent will be given an appropriate and reasonable timeframe to respond to the directions
- 5:** Enforcement action will be undertaken where voluntary compliance has not been achieved
- 6:** The investigation is closed when the non-compliance is rectified

The responsibilities of a Responder

Upon receipt of a written notification of a contravention the recipient should contact the Authorised Officer who signed the letter if

any clarification of the contravention is required.

Responders should provide all relevant information to the best of their ability and at the earliest opportunity. The requirements set out in any letters or notices must be completed within the stated timeframe or alternatively an application in writing for an extension of time in which to comply must be obtained from the Authorised Officer who signed the letter.

At any time you can seek or ask for a support person, such as a family member or advocate who can help you understand what we are asking you to do. A support person often provides emotional support and is with you throughout the process.