

PLANNING COMPLIANCE

Introduction

The Council is responsible for enforcing Town Planning Scheme No.2 (TPS 2) and the *Planning and Development Act 2005* (PD Act).

Where an offence has occurred, there are three types of action available, being:

- a) giving an Infringement Notice, or
- b) prosecuting in a Court; or
- c) the offender may be able to apply for retrospective development approval.

The Planning compliance process can be quite prolonged due to the statutory process required to be followed.

How do I make a complaint about a form of development/land use?

Any person who is aggrieved by a land use or development matter **must** provide their complaint in writing and include the following:

- a) The complainant's name, property address and preferred contact details;
- b) The property address where the alleged offence has occurred;
- c) Details of the alleged offence;
- d) How the alleged offence is having an impact on the complainant;
- e) (if applicable) the dates and times the alleged offence has occurred; and
- f) (If possible) provide photographs of the offence.

Complainants are advised that should the City proceed to prosecution they may be called upon to make a statement in court.

Complainant particulars will be kept confidential and will not be released without the consent of the complainant.

How will the City investigate my concerns?

The City will investigate all complaints and alleged unlawful land use activity, unless:

- a) The matter has already been investigated and resolved;
- b) The City has no jurisdiction. i.e. there is no lawful provision for Council to take action;
- c) The activity is deemed to be lawful without an investigation; and/or
- d) Where the matter is the sole responsibility of another Government Agency.

When acting upon and resolving planning breaches, City Officers will consider negotiation, compliance and education. Negotiations can be a worthwhile approach to foster relationships and build trust in the community and demonstrate reasonableness to the community. Negotiation can often be the least time consuming approach in achieving an acceptable outcome, however, it is dependent upon the seriousness of the breach and willingness of the party to comply.

If the City determines that there is no legal breach of any operative City legislation in the circumstance, it will explain in writing to the complainant the reasons why it is unable to act on the complaint.

Will my concerns be addressed by the City?

It is not always possible for the City to ensure that a complainant is satisfied with the outcome of a complaint.

The City must consider a range of factors when determining whether it will warrant enquiry/investigation but if a decision is made not to investigate a complaint or matter, then the decision must be recorded with clear reasons why. The complainant will then be advised of the decision and the reasons for no action.

The City is bound by legislative and policy requirements, which mean that it will not always be possible to give the complainant the outcome they were looking for. In some cases, the best the City can do is to ensure that it has investigated the matter and satisfy itself that the development is compliant with TPS 2 requirements.

Further Information

A copy of the City's town (local) planning scheme is available on its website (www.nedlands.wa.gov.au). If you have any queries please do not hesitate to contact the City on 9273 3500.

A copy of the PD Act is available online from the State Law Publisher (www.slp.wa.gov.au).