



BERRIGAN SHIRE

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Compliance Charter

This is a **Service Charter** which aims to provide consistency in compliance investigations for the Planning and Building Team in Berrigan Shire.

Compliance Charter

At Berrigan Shire Council, we aim to ensure consistency and fairness in all investigations carried out by Council staff. This document outlines how Council staff in the Planning & Building Team will deliver compliance services to the community, and, how the community can help us do this.

Introduction

This Compliance Charter is essentially a **Service Charter**, which does the following:

- It provides useful advice for a customer asking Council to investigate a potential compliance breach relating to planning or building.
- It guides Council staff to deliver, manage and respond to compliance issues and ensure consistency across the organisation.
- It informs everyone involved of the process that Council staff will follow to investigate a potential breach.
- It provides clarity and certainty to the customer and the community about Council's approach to investigating compliance.
- It sends a clear message to the community that Council takes potential compliance matters and alleged breaches of compliance, seriously.

What is compliance and why is it important?

Berrigan Shire Council provides a range of services which aim to protect the community from known risks to life, property, the environment, residential amenity and public nuisance.

'Compliance' essentially means following due process. It means obtaining the right approvals or permissions and conducting authorised activities in accordance with any conditions or regulatory requirements.

- Source EPA Victoria

Berrigan Shire Council does this by meeting obligations and responsibilities under a broad range of environmental and building legislation in NSW. The departments responsible for meeting Council's obligations are:

- Building
- Planning

Legislation requires Council staff to administer the *Environmental Planning and Assessment Act 1979* (the Act), *State Environmental Planning Policies* (SEPPs), the *Berrigan Local Environmental Plan* (LEP), and the *Berrigan Development Control Plan* (DCP) for the overall benefit of our community.



Generally, a request to investigate a compliance matter comes into Council from Council staff or from a customer / the community.

In terms of the 'offence' or the 'offender', most of the time a person is not be aware that they need prior approval before undertaking an activity. However, everybody must take responsibility and be accountable for their actions. Not being aware of the need for prior approval is not a valid reason for non-compliance. And not doing anything to rectify a breach, when there is a clear opportunity to do so, is never a valid reason for non-compliance.

Help us to help you

If you would like Council staff in the Planning & Building Team to investigate an alleged breach, you can email them at: buildingandplanning@berriganshire.nsw.gov.au.

In your email you will greatly assist us if you provide all of the following:

- Your full name and contact details (email and contact number). *There are some issues that we cannot investigate without these basic details. And tell us if you are representing someone else.
- The address of the property (where the alleged breach is occurring).
- The name of property owner (if known).
- The name(s) of any other parties involved (if known).
- What your concern is.
- How you / your property are being affected.
- An application number (for example, a development application, building permit, construction certificate etc.) if known.
- Any relevant documents or details.

Council staff will acknowledge your email in 1-2 business days of receiving it. If you do not receive an acknowledgment from Council within 3 business days of sending your email, please ring 03 5888 5100 and ask to be put through to the Building & Planning Team.

If you choose to telephone us, please be prepared for Council staff to ask you the above questions and allow them the time to write down and record what you are saying.

Expectations

Underpinning the Compliance Charter is a set of "expectations". It is important for everyone involved to follow these, so that a fair and transparent investigation can occur.

The expectations are as follows:

Respect	In all communications, be polite, open, informative and constructive.
Truth	Honesty is always the best policy.
Fairness	Treat everybody as an equal.
Listen	Take the time to listen and understand the situation.
Open	Be open to understanding the situation, the different perspectives, options, the consequences and solutions.
Case by case	Every situation is different, so every situation needs to be taken as it comes.
Impartiality	Take the time to listen to all sides of a story and get a shared understanding.
Take responsibility	Know all the facts and be accountable for how you act on them. Take responsibility for your actions.
Timeframes	Be aware that it may take time for an investigation to occur. Be flexible, reasonable and realistic.
Risk	Be aware that every investigation is different and that some compliance issues are more urgent than others requiring them to be investigated and actioned immediately. Council staff will look at the risk before deciding on how to proceed. Example: An allegation about potential unlawful vegetation removal (native trees) or a wall that is about to collapse would generally be considered a greater risk compared to a sign being erected with a permit).

In return, Council staff will be able to investigate and deliver on the following:

1. Getting all of the facts and being informed
2. Work collaboratively
3. Be visible and transparent
4. Explain and inform
5. Be consistent
6. Assess risk accurately
7. Have a clear understanding
8. Make a decision
9. Close each investigation and provide reason
10. Keep accurate records

Getting all of the facts and being informed

What we will do:

- Acknowledge the issue by:
 - registering the issue (email) on Council's record management system;
 - deciding which department(s) are key to assisting with the investigation; and
 - keeping the complainant informed (by email, phone or letter).
- Identify and declare if a conflict of interest occurs.
- Establish what the relevant legislation/controls/policy are.
- Undertake a preliminary review of the issue, including looking at:
 - ownership / title of the relevant property;
 - previous history of the property e.g. permits or other complaint;
 - whether any service authorities need to be notified; and
 - whether any resources / technical advice (or the like) will be required.
- Be aware of any sensitive information (this might include an approved building floor / plan).
- Complete a risk assessment (OH&S safety awareness).
- Determine the most appropriate method of communication for the matter.
- Do a site inspection, as soon as possible.
- Consider whether there is any potential for compliance to be achieved.
- Save all relevant findings on Council's record management system.

Work Collaboratively

What we will do:

- Approach every situation on a case by case basis and with a positive attitude.

- Nominate a single point of contact and coordinate through that single point of contact.
- Work together.
- Undertake joint site inspections where possible to minimize any inconvenience to the public.
- Look for a reasonable / practical solution.

Be visible and transparent

What we will do:

- Be pro-active.
- Contact the offender owner by phone/or in person first (if possible), before official letters and notices are sent.
- Wear Council staff identification
- Leave contact details.
- Provide ongoing monitoring of the offence (where appropriate).
- Schedule times for meetings or site visits that are convenient for all parties.

Explain and Inform

What we will do:

- Use media positively and regularly to inform the community of their obligations and special programs.
- Invite the customer to have a support person present at any site visit. This may include an independent expert:
 - Explain what is happening and what to expect on the visit.
- When visiting the property, officers will:
 - Introduce themselves and the reason for the visit.
 - Have the facts at hand.
 - Use clear, plain language.
 - Ask for an explanation.
 - Listen, provide advice and options for compliance.
 - Seek commitment to a timeframe.
 - Outline the process going forward and potential consequences.
 - Be realistic and upfront.
 - Leave the property as you found it - "Please shut the gate". ▪
- Provide clear fact sheets/web and information sources to help people comply.
- Use community forums as a means of talking about compliance with the community.

Be Consistent

What we will do:

- Base decisions on a consistent standard process.
- Align the approach to the level of risk of the compliance matter.
- Follow the principles of the compliance framework.
- Learn and improve our processes and continuously evolve and improve.

Assess Risk Accurately

What we will do:

- Use a common risk management model to identify the level of the action in response to the compliance issue. Understand the impacts of the risks and who these may apply to.
- Respond to the issues of highest risk first.
- Assess costs versus outcome.
- Consider the consequence.

A risk is often specified in terms of an event or circumstance and its impact on the achievement of an organisations goals and objectives. A risk is measured in terms of a combination of the consequences and likelihood of a risk event occurring. Risk may have a positive or a negative impact.

- Consequence “the outcome or impact of an event.” There can be more than one consequence from one event. Consequences can range from positive to negative, and can be expressed qualitatively or quantitatively. Consequences are considered in relation to the achievement of objectives.
- Likelihood “used as a general description of probability or frequency”. It can be expressed qualitatively or quantitatively.
- Risk Management “the culture, processes and structures that are directed towards realising potential opportunities whilst managing adverse effects.

Have a clear understanding

What we will do:

- Communicate through one point of contact to all departments that are involved.
- To help understand each other we will:
 - use plain English
 - actively listen
 - focus on trying to understand
 - use various forms of communication, e.g. phone, email, letters, etc.
 - provide timely communication throughout the process to all parties.

- Escalate awareness of the issue as required (General Managers, CEO, Councillors) in accordance with the table below. When a priority rating is assigned, it can be used for determining the level of escalation awareness that is required. Where a matter is escalating it should be interpreted that the Team Leader, Manager, General Manager and CEO will continue to be updated.

Make a decision

What we will do:

- Work within the parameters of the regulations, legislation and codes, etc.
- Keep an “open mind” and seek practical outcomes when assessing the matter.
- Seek and suggest proactive responses and outcomes when making decisions.
- Ensure appropriate delegation is applied (internal and external).
- Escalate matters based on clear guidelines.
- Clearly communicate and confirm a shared understanding.
- Set and outline achievable timeframes as agreed.
- Monitor the situation, review if any change has occurred and escalate as required.
- Take appropriate action based on level of severity based on our Compliance Response Matrix.
- Be accountable for the decision that we make.

Council’s response to a situation can sometimes be driven by legislation and therefore the severity of the breach may determine the action that has to be taken.

Close each investigation and provide reason

What we will do:

- Ensure the responsible officer completes all compliance matters.
- Inform all relevant parties of the outcome.
- Place final documentation on Council’s record management system.
- Thank stakeholders for their cooperation

Keep accurate records

What we will do:


- Save all relevant documents (emails, written correspondence) electronically, in Council’s digital record management system.



- Record events and recollect conversations and situations in an unbiased way.
- Recognize the appropriate level of confidentiality needed, as required.
- Use standard documentation and plain English, wherever possible.
- Comply with the requirements of the *Information Privacy Act 2000*.
- Liaise with internal departments within Council, where required.

Feedback

If you have had an experience with Building or Planning, good or bad, we welcome your constructive feedback. Please email us at: buildingandplanning@berriganshire.nsw.gov.au using these words in the subject heading: **Feedback on experience with Building / Planning**.

Berrigan Shire Council

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