



Concordia Pacific

Environmental, Government and Town Planning Law

FACT SHEET FOR LOCAL GOVERNMENT ENFORCEMENT

Local councils have a broad range of regulatory responsibilities. They administer several key pieces of legislation, including the *Environmental Planning and Assessment Act*, the *Local Government Act*, the *Protection of the Environment Operations Act*, the *Food Act* and the *Companion Animals Act*. The enforcement tools that are relied on by councils include:

- Informal warning letters advising that the council has identified a breach and requesting that it be corrected;
- Seeking written undertakings that a problem of concern to council will be remedied;
- Issuing Notices of Intention to Give Orders, which are used to give notice that the council intends to take administrative enforcement action in response to a suspected breach;
- Issuing formal enforcement orders, particularly under section 121B of the *Environmental Planning and Assessment Act* and section 124 of the *Local Government Act*;
- Commencing civil proceedings in the Land and Environment Court to require compliance with an administrative order (known as “class 4 proceedings”);
- Seeking a fine for a minor infraction by issuing a Penalty Infringement Notice (PIN).
- Taking a prosecution in the Local Court by issuing a Court Attendance Notice; and
- Bringing criminal enforcement action in the Land and Environment Court (class 5 proceedings).

The types of issues that most commonly prompt a council to commence action in court are:

- Carrying out building works without first obtaining development consent, contrary to section 76A(1)(a) of the *Environmental Planning and Assessment Act*;
- Using a building for a purpose that does not have development consent (such as a brothel or a night club);
- Failing to comply with the requirements of a Fire Safety Order that has been issued under section 121B of the *Environmental Planning and Assessment Act*;

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- Removing, damaging, or pruning protecting trees, or clearing land, without the consent of the council;
- Spills of polluting substances into waterways from premises that are not licensed under the *Protection of the Environment Operations Act*;
- Altering the appearance of a building that is a heritage item or that is located in a heritage conservation area, without first obtaining consent.
- The prominent display of advertising signs without development consent.

It is often the case that compliance issues can be worked out through discussions with the council, and that a mutually satisfactory approach to resolution of the matters of concern can be agreed upon.

Concordia Pacific can help you if you find that you are facing an enforcement action from a council. We have extensive experience in dealing with local government, and can provide you with effective and forceful advocacy in Court. Please contact us on **9233 4914** if you require our assistance.

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