

**Blue Mountains Conservation Society Inc.**

## **Planning and Development Resource Kit**



### **Information sheet: Further action**

**The actions discussed here are only relevant if you have already done the following and are dissatisfied with the response:**

- Reported an illegal activity to Council through a Customer Service Request. To find out how to do this, see the **How to Make an Enquiry at the Blue Mountains City Council** page.
- Reported, through a Customer Service Request, a current development where the work does not comply with the conditions of development consent.
- Spoken to the Council officer responsible for assessing the Development Application.
- Spoken to the Certifier (Council or private) responsible for ensuring that the development is carried out in accordance with the approved plans, specifications and conditions of consent.
- Written to the General Manager.
- Contacted your Ward Councillors and Mayor.
- Reported the problem to the appropriate authority listed in the relevant 'scenario'.

The first step in taking further action is to keep collecting evidence! Start talking to neighbours or other affected people. If you think the development activity you are concerned about is significant for environmental protection in the Blue Mountains more generally, start contacting people who may have a broader interest in the issue and encourage them to write to Council and talk to your Ward Councillors. Keep recruiting people to your cause. You may even want to start an action group! You can also contact the Blue Mountains Conservation Society for further advice and support.

How and where you generate these 'networks of influence' depends on whether it is Council or some other agency responsible for regulating the development activity.

### ***Development that is regulated by the Blue Mountains City Council***

Most types of development are regulated by the Blue Mountains City Council through its Local Environmental Plan (LEP) and Development Control Plans (DCPs). These include housing (and related activities), commercial development on private land and management or development of Council-owned or Council-managed land.

### **If the development or activity is illegal**

If your Customer Service Request has revealed that the development activity is illegal, it is the Council's duty to take action in accordance with their *Enforcement Policy* which you can download by clicking [here](#). You can keep the pressure up on Council to fulfil its legal obligations by continuing to make phone calls, emailing and asking Councillors to make enquiries on the issue. You can also take the issue to the media (see later).

If the Council fails to take action on an illegal activity and you have pursued the other actions suggested above, there are a couple of avenues you can pursue at a 'bureaucratic' level:

- contact the [NSW Office of Local Government](#)
- contact the [NSW Ombudsman](#)
- contact the [NSW Administrative Decisions Tribunal](#)

There are limited issues that each of these organisations can pursue but it appears that the Administrative Decisions Tribunal has the most teeth.

### **If the development or activity is legal**

If through your own investigations or your Customer Service Request you have found that the development as it is being conducted is legal and compliant, you do not have any further recourse to Council's processes or to a legal objection. However, the legality and compliance of development activity does not mean that the development is environmentally acceptable. The damage caused by a legal development activity may be unacceptably damaging to the environment.

Even though you may seemingly have no legal avenues to stop the development, you can continue to monitor for any breaches of the conditions of consent and you can draw the public's attention to the unacceptability of this kind of development through the media. You can continue to campaign on the larger issue of the inadequacy of the legal framework to protect the environment.

### ***Development involving NSW state government agencies***

Development activity in the Blue Mountains may also involve or concern NSW State government agencies such as the National Parks and Wildlife Service, WaterNSW, Roads and Maritime Services (RMS), NSW Trains etc.

If you have found suspected illegal development activity in the Blue Mountains National Park, you should contact the National Parks and Wildlife Service directly on 4787 8877 and ask to speak to the Area Manager for the Upper Blue Mountains, or phone the Area Manager for the Lower Blue Mountains on 4588 2400.

If that fails, you can also contact the NSW Member of Parliament for the seat of Blue Mountains, **Trish Doyle** (Email: [bluemountains@parliament.nsw.gov.au](mailto:bluemountains@parliament.nsw.gov.au); Phone: 4751 3298) for developments involving State government agencies.

### ***Media campaigns***

You can arrange a visit to the site (or a nearby site which has views of the development activity) where the environmental damage is occurring, with the local Councillors and the Mayor and/or local State Member of Parliament. You should also inform the *Blue Mountains Gazette* of the site visit (phone 4751 1955). Before you contact the *Gazette*, prepare an information sheet which clearly outlines the activity, the issues and your concerns that the reporter can use in a story. You have to convince the *Gazette* reporter that this is a story worth reporting on.

However, before visiting the site you must understand that it is illegal to go on to private land without the permission of the owner. If the evidence gained in this illegal way is being collected for a possible Land and Environment Court case, it will be disallowed.

For further advice on using the media go to the NSW Environmental Defender's Office Fact Sheet [Have Your Say. Speaking out in public](#) (which includes information on defamation) and [Engaging the media](#).

### ***Campaigning***

The NSW Environmental Defender's Office has a Fact Sheet on Campaigning which you can find by clicking [here](#).

### ***Legal action***

Legal clarification and advice should be initially sought through contacting the NSW Environmental Defender's Office's (EDO) free legal advice telephone line (9262 6989, or 1800 626 239 from outside Sydney). Click [here](#) to see the guidelines which the EDO uses to help determine the circumstances in which it can assist the public beyond initial telephone advice. The EDO will advise you of the costs of more detailed legal advice and potential legal action. You could also approach a private solicitor with knowledge of planning law for detailed legal advice for which you will have to pay. See also the EDO's Fact Sheet [Access to Justice. Legal Advice and litigation](#).

***Sources of information for this page:*** Blue Mountains City Council, NSW Environmental Defender's Office, NSW Government sites.