

AgRefresh

**STAGE 3 REPORT | EXCERPT
IMPROVING BYLAW
COMPLIANCE**



4.0 Improving Bylaw Compliance

Ensuring the City's farmland is being used for agricultural purposes will help sustain the local agricultural sector as a key contributor to the local, regional, and provincial economy for the long term. This chapter summarizes the key players and tools supporting bylaw compliance in the ALR, and outlines a recommended approach to improve compliance moving forward.



4.1 Strengthening Regulatory Compliance in Farming Areas

With approximately 72% of the City in the ALR, the importance of agriculture to Abbotsford's economy and community identity cannot be understated. Ensuring Abbotsford's farmland is being used for agricultural purposes will help maximize the capacity of existing lands and support this critical industry into the future.

Farming operates in a complex and dynamic environment of municipal and provincial regulation. The City is just one player, with the Agricultural Land Commission and Ministry of Agriculture serving as the overarching regulator of agricultural lands in the Province. However, the City has an important role to collaboratively manage regulatory compliance in local farming areas to keep the sector strong.

AgRefresh proposes a strategic and focused approach to improve bylaw compliance in the ALR.

This section is organized to address the following:

- 4.2 Partners and tools supporting bylaw compliance
- 4.3 What we've Learned about Abbotsford's ALR
- 4.4 Citywide Bylaw Compliance Strategy
- 4.5 ALR Bylaw Compliance Approach
 - » Part 1: Moving Forward
 - » Part 2: Targeted Action
 - » Part 3: Respond

4.2 Partners & tools supporting compliance

4.2.1 Ministry of Agriculture (MoA)

The MoA plays a high level role to help ensure the ALR is being used in a manner that supports agriculture and remains compatible with surrounding non-ALR lands, and between farms within the ALR.

While overseeing the Right to Farm Act, the MoA may receive and investigate complaints from urban-side residents, or between farmers, regarding nuisance complaints related to ALR land uses. If complaints can not be resolved at this level, they may proceed as formal complaints to the Farm Industry Review Board (FIRB).

The Ministry's role is largely policy focused, not dealing with compliance and enforcement in the ALR.

4.2.2 Agricultural Land Commission (ALC)

The ALC established a Compliance and Enforcement arm in 2007 to help ensure that activities taking place within the ALR are consistent with the *ALC Act*, ALR Regulations, and decisions of the ALC. While there are a small number of ALC Compliance and Enforcement Officers to cover the province, compliance activities include a combination of education, information, and enforcement.

According to the January 2017 Compliance and Enforcement Management Framework, the regulatory requirements administered by the ALC are dealt with in the context of a social regulatory approach, with ALC staff taking consultative steps where appropriate and seeking voluntary compliance.

While the ALC indicates that voluntary compliance is desired, the agency may take further compliance and enforcement measures they deem appropriate.

ALC tools and measures for regulatory compliance:

- Compliance Notice - acknowledges potential non-compliance.
- Notice of Contravention - states a person is in non-compliance.
- Stop Work Order - requires the non-compliant activity to cease.
- Remediation Order - requires remedy of the contravention.
- Administrative Penalties - implemented with failure to comply.
- BC Supreme Court Order - further assistance to achieve compliance when needed, if previously unsuccessful
- Court Prosecution - legal proceeding

4.2.3 City Abbotsford

The City of Abbotsford plays an important role in supporting the long-term viability of ALR lands and ensuring agricultural areas are used for the intended purpose. The City’s authority to inspect properties in the ALR falls under the *Community Charter*.

Bylaw staff create an inspection/investigation plan and follow the plan to the conclusion of every investigation. A typical investigation includes, at minimum: a summary of the alleged infraction, review of the relevant bylaw and the test that must be met to confirm that a contravention has occurred, evidence required to meet the test, and time lines for expected compliance. Every investigation is thoroughly documented, including resulting decisions.

The City’s **progressive bylaw compliance approach** is as follows:

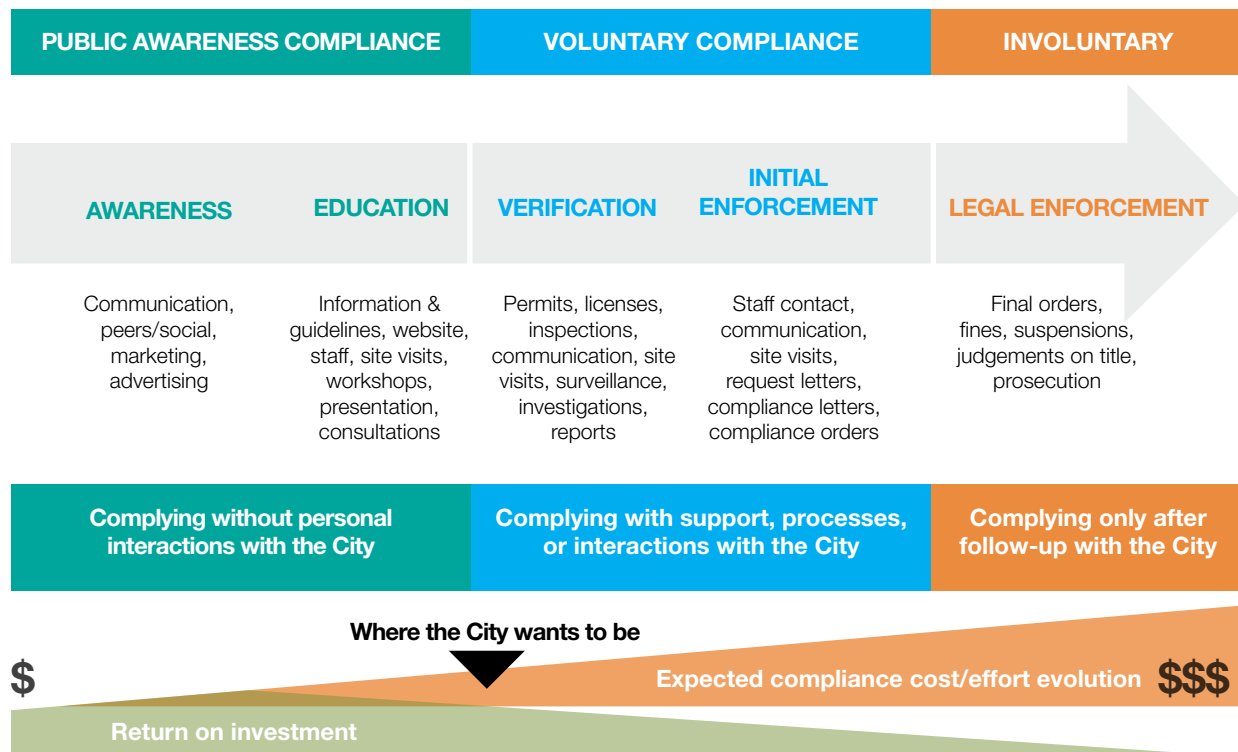


Fig. 17: Citywide Bylaw Compliance Strategy - Progressive Enforcement

4.2.4 Inter-Agency Relationship/Cooperation

The City has concurrent regulatory authority with regards to protection of the environment, building standards, prohibition of soil deposit or removal, and the protection of farmland. Therefore, City enforcement action is subject to provincial involvement and, in some cases, approval.

The City coordinates its compliance and enforcement efforts through the Abbotsford Combined Enforcement Team (ACET), a multi-agency working team. This allows challenges to be dealt with in a coordinated and effective manner in regards to specific authorities and expertise of each agency. Compliance coordination can be between City departments and outside agencies such as the ALC, Ministry of Transportation and Infrastructure, Ministry of Environment, etc.

4.3 What we've learned about the ALR

4.3.1 High Level Air Photo Compliance Scan

As part of AgRefresh Stage 1 background research, the City conducted a preliminary assessment, for a point in time, of lands within Abbotsford's ALR to better understand the extent of potential non-compliance of City bylaws and provincial regulation.

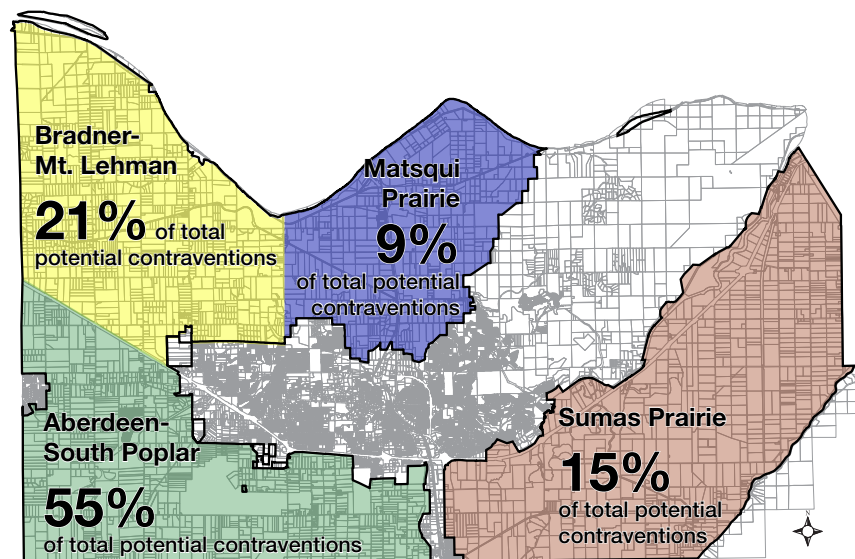
Properties in the ALR were reviewed in winter 2016 using the City's 2014 air photo, looking for potential contraventions such as unauthorized commercial and recreational vehicle storage, mobile homes, secondary dwellings, an excessive number of vehicles, inordinate buildings/structures, and evidence of unauthorized fill.

The air photo scan findings were then reviewed using the City's property database to confirm approvals for non-farm uses, permits, licences, and active bylaw files at that point in time.

While this is only a snapshot in time, the high-level assessment of outdoor activity revealed valuable information about the magnitude of common contraventions in the four agricultural quadrants of the City.

Of the approximately 4,600 parcels in the ALR, about 9% (400) were identified to have one or more potential contraventions, with a total of approximately 500 potential contraventions at the time of the assessment. Although some of the properties have multiple contraventions, the majority (74%) of identified properties only had one contravention.

The majority of the properties are clustered in the uplands (Bradner-Mt. Lehman and Aberdeen-South Poplar).



Map 1: Bylaw Compliance Assessment Summary (AgRefresh Stage 1 Report)

The 500 potential contraventions observed on approximately 400 properties (2014 air photo analysis) are summarized into the following categories:



Fig. 18: Air Photo Analysis - Potential ALR Contraventions 2014

Limitations of the analysis

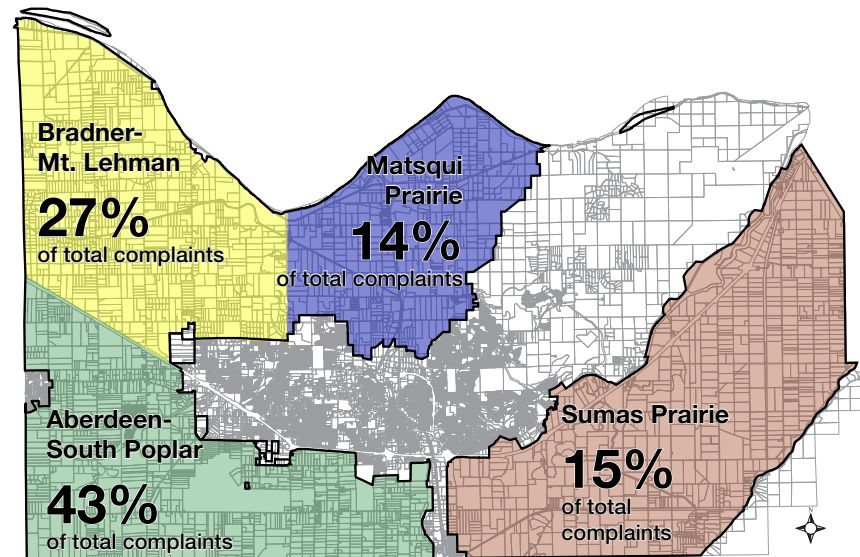
While the Stage 1 air photo analysis provides a valuable and reliable indication of key issues impacting farmland in Abbotsford, it is important to acknowledge limitations of the scan:

- It is based on a 2014 air photo.
- Assessment is high level, only capturing a point in time. It does not reflect 24/7 activity of properties or other times of the year.
- It is a scan of outdoor activity and does not account for indoor uses.
- The City records cross-check only involved digital files and did not pull older historic records (microfiche). For example, this may impact a flagged second dwelling that was approved many years ago, or permitted prior to amalgamation under different regulations.

4.3.2 ALR Bylaw Compliance Complaints

Supplementing the 2016 AgRefresh air photo analysis, a summary of bylaw complaints received for properties in Abbotsford's ALR helps round-out the understanding of key challenges and geographic trends. This supplemental data will help prioritize action moving forward.

The City received 513 ALR complaints between early 2017 and mid-November 2020. The distribution of complaints is summarized below:



Map 2: Bylaw Compliance Complaints 2017 - November 2020

Using the similar categories as the air photo analysis, the following complaint breakdown was observed by topic:

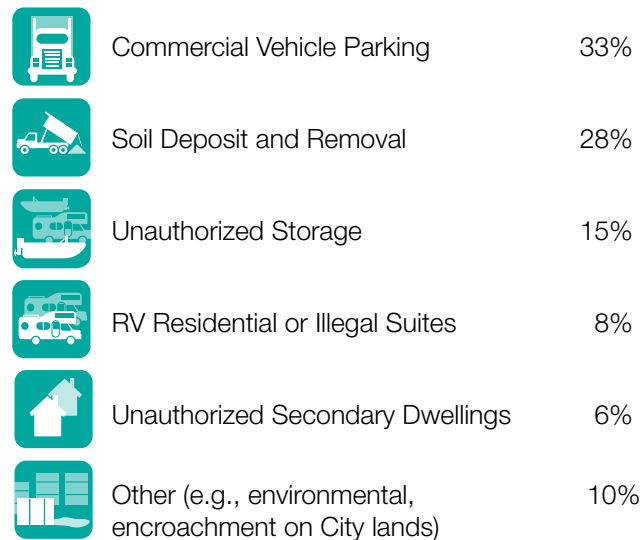


Fig. 19: ALR Bylaw Compliance Complaints 2017 - November 2020

4.4 Citywide Bylaw Compliance Strategy

The City's Bylaw Compliance Strategy is guided by four objectives to align with the overall strategic direction adopted by Council and to provide enhanced customer service.

1. Build on and align with Council's Bylaw Compliance Policy. Under this policy calls for service are prioritized as follows:
 - Address immediate adverse impacts to the environment or public safety as top priorities.
 - Next address "impact" based issues, where three or more properties are impacted.
 - Address remaining calls for service according to standard operating procedures as resources permit.
2. Be customer centric and community focused, emphasizing proactive partnerships and problem solving.
3. Provide a service delivery that aligns with current and future service demands
4. Provide consistency and clarity in responding to non-compliance.

The Citywide Bylaw Compliance Strategy sets out a path for how the City will deliver its bylaw compliance and enforcement services with a strong focus on public awareness, consistency, fairness, and commitment to service quality.

This serves as the foundation for the proposed AgRefresh Bylaw Compliance Approach addressing ALR lands.

4.5 ALR Bylaw Compliance Approach

The draft AgRefresh Bylaw Compliance Approach (BCA) is holistic, combining enhanced City processes with strategic Bylaw Services action to address key ALR challenges.

This approach is aligned with the City's Bylaw Compliance Policy and Strategy. It acknowledges the scale of Abbotsford's ALR and aims to effectively and realistically deploy available City resources.

4.5.1 Three Part Approach

The general principles influencing the Bylaw Compliance Approach are based on fairness, transparency and consistency.

This Bylaw Compliance Approach coordinates three complementary components, with each further explained in the following sections.

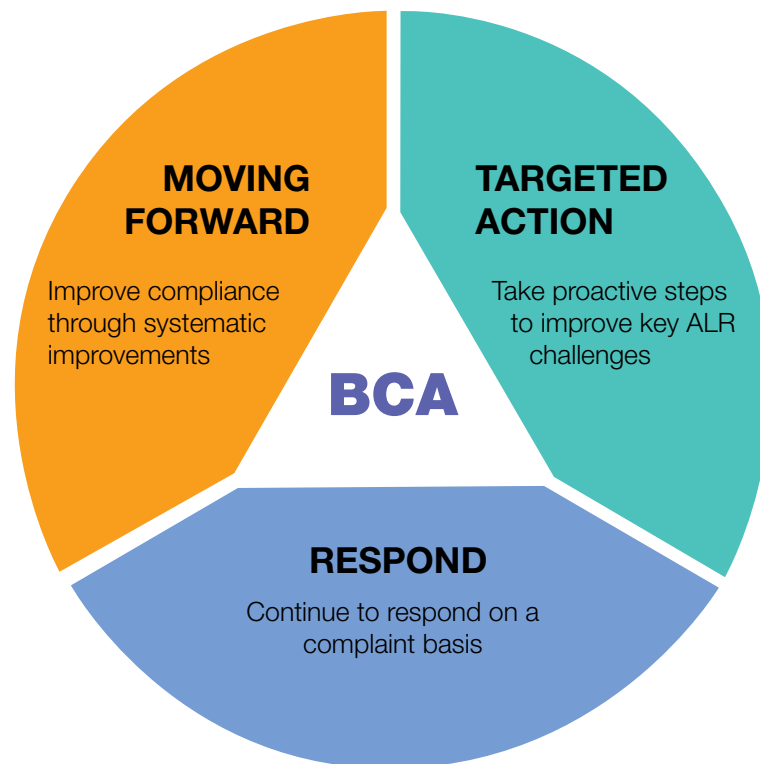


Fig. 20: AgRefresh Bylaw Compliance Approach



Moving Forward: Implement strategic City system enhancements to improve compliance through City processes (applications & renewals). This focuses on raising awareness, partnering to solve problems, and broadening awareness of the rules.



Targeted Action: Strategically and proactively address key issues negatively impacting the capacity and use of farmland in Abbotsford's ALR.

Take targeted action on key issues through an awareness campaign, a 'self-reporting' grace period, and escalated enforcement for undeclared non-compliance.



Respond: The Bylaw Compliance Approach recognizes that it is not possible, nor realistic, to continually monitor all properties in the ALR.

Given this limitation, the City will continue to respond to all reports of non-compliance based on priority.

4.5.2 Prioritize Key ALR Challenges

Topic	Priority Level	Response Type
Commercial Vehicle Parking	High	Targeted Action
Unauthorized Storage		
Soil deposit and removal		
Unauthorized Dwellings	Medium*	Moving Forward and Respond
Other Issues	Medium*	Moving Forward and Respond

*Issues involving safety, liability, and environment will be treated as 'High' priority in accordance with the City's Bylaw Compliance Policy.

Fig. 21: Prioritize Key ALR Challenges



4.5.3 Moving Forward

The City processes a range of applications for buildings, structures, non-farm uses, liquor licenses, and business licences in agricultural areas. These City review processes provide an opportunity to raise awareness of rules, help problem solve, and ultimately guide compliance prior to issuing permits, approvals, or support.

The following **‘Moving Forward’ Strategies** are proposed to improve compliance through enhancements to existing City processes:

1. Improve ‘additional dwelling’ compliance via ALC applications

In early 2019, the ALC introduced a Non-Adhering Residential Use application process to evaluate ALR proposals for additional farm help dwellings and principal residences over 500 m² in floor area.

Use this ALC and City application process to incrementally improve residential compliance as proponents request new approvals.

2. Strengthen ‘front-end’ review for value-added farm uses

Develop and use ‘Planning Review Information Forms’ to support consistent City review of proposals related to on-farm value-added activities (i.e., on-farm processing, alcohol production facilities, farm retail sales). Proposals for value-added activities tend to be more complex given their relationship to the overall farm operation.

The information form will summarize key farm details that help staff assess consistency with the Zoning Bylaw and ALC requirements (e.g., 50% rules). The form will also help efficiently clarify compliance questions with the ALC and Ministry of Agriculture.

3. Require a business licence for farm retail sales

Require business licences for Farm Retail Sales areas that are larger than 10m² and in permanent structures. This threshold exempts small roadside stands and non-permanent seasonal tents, but will help the City track the number of permanent farm retail businesses and facilitate compliance reminders with annual business licence renewals.

4. Enhance the business licence review process in farming areas

Consistent with strategy #4 of the City’s Bylaw Compliance Strategy (leverage technology automation), implement an enhanced business licence application and renewal process to periodically remind ALR businesses of the rules applicable to their licenced activities (e.g., home occupation, farm retail sales).

This would involve updates to the application and renewal process, prompting the applicant to answer a short set of questions and declare compliance with key regulations.

5. Exclude commercial vehicle dispatch from home occupation use

The City's Bylaw Services team has experienced recurring challenges in the ALR with home-based commercial vehicle dispatch businesses being accompanied by unauthorized on-site commercial vehicle parking.

AgRefresh proposes to prohibit new commercial vehicle dispatch services as a Home Occupation Use. Existing home occupation dispatch businesses may continue to operate, subject to non-conforming provisions of the *Local Government Act* (s. 528).

6. Require an Outdoor Special Event Permit for on-farm ALR events

Amend Outdoor Special Event Bylaw No. 2395-2015 to require Special Event Permit approval for gathering events and agri-tourism events hosted on a property within the Agricultural Land Reserve, where the event is:

- likely to be attended by 50 or more people;
- open to public attendance, or held as a private event; and
- held outdoors (including tents), either in whole or in part, except for an event held within an endorsed lounge or Special Event Area at a licensed on-farm alcohol production facility.

Currently, the City's Outdoor Special Event Bylaw No. 2395-2015 only applies to events involving 200 or more people. However, it is important to acknowledge that ALR gathering events (public or private, up to 150 people), and much larger agri-tourism events (e.g., a tulip festival), can negatively impact farmland if not effectively managed.

Proposed amendments to City's Special Event Permit process would provide valuable oversight to support compliance with the ALC rules (i.e., max numbers) and facilitate review of life safety, traffic/parking, insurance, as well as sound and noise impacts. City awareness of ALR events will support emergency response calls and emergency preparedness.

7. Automate reminders to mushroom operators regarding annual reporting requirements

Implement automated reminder letters to mushroom operators to improve compliance with annual pollution plan reporting requirements. Support this reminder with automated Bylaw Services action in cases of non-compliance.

The City's Farm Bylaw (No. 698-98) for regulating mushroom growing and composting operations requires annual submission of a waste water maintenance, monitoring, and performance plan. Automating annual reminders and Bylaw Services action will support the industry with reminders and ensure City follow-up.

Explore options to modernize Farm Bylaw No. 698-98 in the future to further support compliance.



4.5.4 Targeted Action

Part 2 of the proposed bylaw compliance approach involves proactive steps to address high priority bylaw contraventions.

Use a Strategic Approach

The following strategic targeted action is proposed:

Prioritize the ALR compliance challenges/topics with the greatest impact on agricultural lands and the highest prevalence

Address other non-compliance discovered through investigation of priority issues, especially if environment, liability, or safety related

Educate and Raise Awareness as the starting point, giving land owners an opportunity to self-identify and correct non-compliance.

Priority Compliance Topics

Given the impacts on agricultural lands, the following three topics are recommended as priorities for proactive compliance action in the ALR:



Unauthorized Commercial Vehicle Parking

Impacts

- Reduces area available for agricultural production.
- Washing, maintenance, and parking can result in environmental contaminants and compacted soils.
- Without proactive measures, financial advantages may worsen ALR impacts and prevalence.

Trends and Observations

- 33% of total ALR bylaw compliance complaints the City received 2017-2020.
- Comprised 14% of total potential ALR contraventions, impacting ~2% of ALR parcels (2014 air photo).



Unauthorized Storage

Impacts

- Reduces area available for agricultural production, diminishing the collective productivity of the ALR
- Similar to commercial vehicle parking, financial benefits may worsen the issue if not addressed.

Trends and Observations

- Wide range of stored items, such as RV/vehicles, boats, wrecked vehicles, construction equipment, home based business materials/equipment.
- 15% of total ALR bylaw compliance complaints the City received 2017-2020.
- Comprised 24% of total potential ALR contraventions, impacting ~3% of ALR parcels (2014 air photo scan)
- Many sites with home based businesses are observed to have potential issues with unauthorized outdoor storage (Bylaw Services experience).



Soil Deposit and Removal

Impacts

- Directly impacts soil quality and drainage patterns in the ALR, often to the detriment of the non-compliant parcel, adjacent farmland, and watercourses.

Trends and Observations

- 28% of total ALR bylaw compliance complaints the City received 2017-2020.
- Comprised 10% of total potential ALR contraventions, impacting ~1% of ALR parcels (2014 air photo scan)
- Vast majority of soil infractions are deposit related.

Targeted Bylaw Compliance Action Plan

The following proposed Action Plan is consistent with the City-wide Bylaw Compliance Strategy, focussing ALR compliance action on education, awareness, and an approach that leverages the value of voluntary compliance. As noted in 4.2.3 and page 5 of the City's Bylaw Compliance Strategy, 'voluntary compliance' is where the 'return on investment' and 'expected cost/compliance evolution' intersect.

If this approach is endorsed by Council, the City's Bylaw Services team will prepare a detailed operational work plan based on the following key steps. This approach will address all ALR properties in Abbotsford.

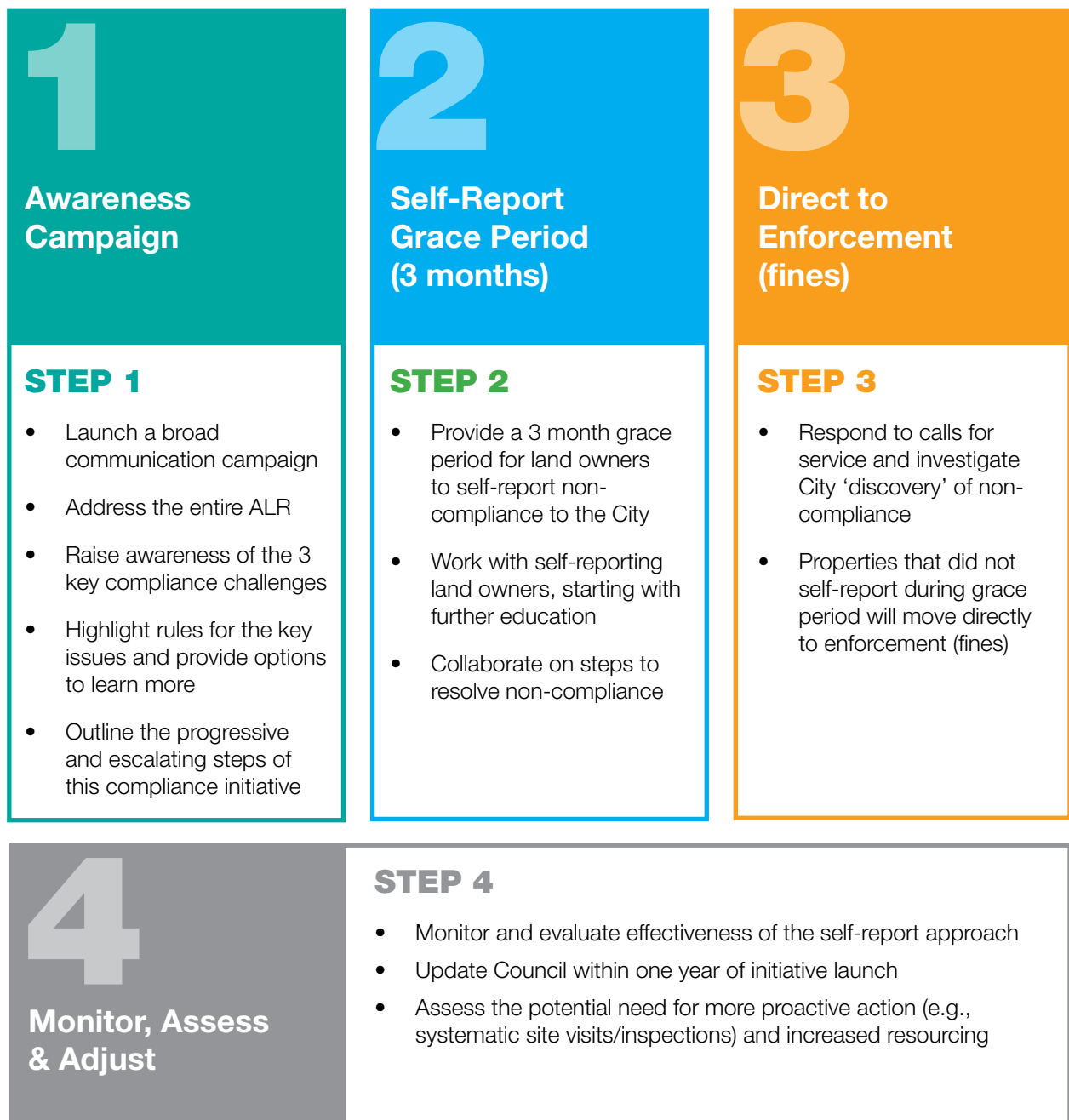
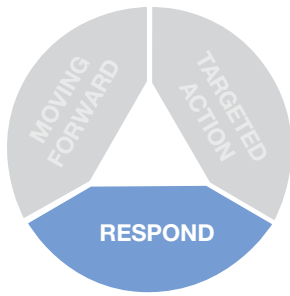


Fig. 22: AgRefresh Targeted Bylaw Compliance Action Plan



4.5.5 Respond

Given the City's finite resources and the size of Abbotsford's farming area, it is not feasible, nor realistic, to continually monitor all ALR properties for non-compliance.

The third component of the proposed Bylaw Compliance Approach will continue the current practice of responding to bylaw complaints and calls for service in accordance with Council's Bylaw Compliance Policy (C006-08).

As outlined in 4.4, this approach responds to service calls based on a priority system that acknowledges the importance of rapidly addressing situations impacting human health, safety, security, or the environment.

4.6 Next Steps

Pending Council consideration and support for the bylaw compliance approach outlined in this Stage 3 Report, Bylaw Services will begin preparing a detailed work plan to kick off the Targeted Action Plan set out in section 4.5.4.

Planning and Development Services will implement the process improvements set out in 4.5.3 Moving Forward, in collaboration with other City departments.