



Council Policy

Regulatory Activities

Version 1 - 22 March 2021

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Introduction

Background

There is an increasing expectation upon councils to deliver better regulatory outcomes for their communities. Poorly designed and enforced regulation can burden business and individuals with unnecessary interactions with government and cause regulators to fail in reducing risks to society, the environment and the economy.

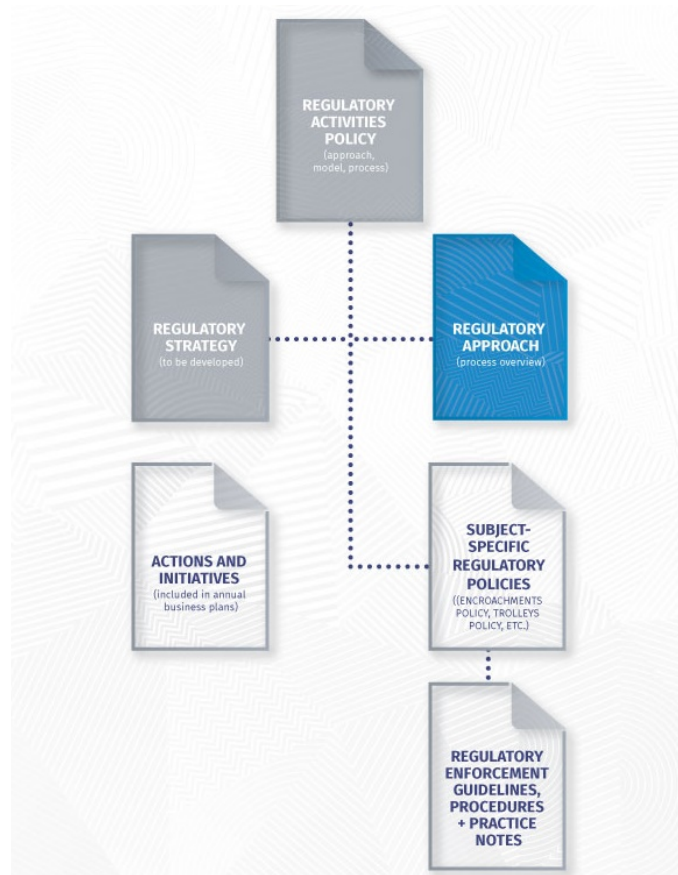
Council is establishing a best practice *Regulatory Compliance Framework* that seeks to overcome these problems by directing regulatory effort towards reducing risks and delivering measurable outcomes.

The *Regulatory Compliance Framework* introduces a strategic approach to regulatory compliance, which:

- **applies best practice** principles and processes to identify and deliver regulatory outcomes that benefit the community overall
- **reduces the burden** (or 'red tape') on business and other regulatory stakeholders
- **prioritises effort** and allocation of resources to initiatives that reduce risks and increase positive outcomes for the community, environment and economy.

The *Regulatory Activities Policy* is a central and overarching document within the Regulatory Compliance Framework.

FIGURE 1: REGULATORY COMPLIANCE FRAMEWORK



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1 Purpose

The purpose of this policy is to define Council's approach as an outcomes and risk-based regulator. It establishes the key objectives and decision-making principles that will guide our compliance and enforcement activity, and introduces the model and management process that will support implementation of our approach.

2 Scope

This policy applies to all regulatory, compliance and enforcement activities undertaken by Council staff in performing their official duties on behalf of Council. It will be applied flexibly, enabling individual officers and managers to exercise discretion where appropriate.

It will also guide joint regulatory or compliance activities of Council, including those we undertake in partnership with other authorities

3 Our regulatory role

Council has a range of complex and varying regulatory responsibilities that span planning, building and construction, companion animals management, environmental protection, liquor and restaurants, public health and safety, parking and transport, and management of public areas.

The regulatory functions of councils are set by the State Government. Once these regulatory functions are set, Council controls how it approaches regulatory compliance and manages risk.

Risk, in the context of regulation, can be defined as the risk of not achieving outcomes that various statutory instruments, legislation and the general direction of government policy are designed to achieve. Key risk indicators include:

- property loss or damage
- environmental harm
- public health and safety
- public interest.

4 Policy statement

4.1 Our regulatory approach

We seek to ensure our regulatory responses deliver outcomes that benefit the community overall. In short, we seek to put our effort where it counts and target risks of harm. To achieve this, we are working to act in the public interest while minimising 'red tape' and improving the way we allocate resources.

Council defines itself as an outcomes and risk-based regulator. Our approach focuses on:

- **Outcomes:** We exercise discretion to focus on activities that can bring beneficial outcomes for the community overall.
- **Risk:** Identifying and treating risks before they lead to actual harm to people, the natural and built environment, and the economy.

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4.2 Regulatory objectives

Through this policy, Council aims to:

- fulfil obligations placed upon Council by law or State policy
- prevent or minimise harm to health, safety, property or the environment
- support community wellbeing and economic prosperity in Lake Macquarie City by reducing Council 'red tape' for businesses and the community
- support the efficient and effective allocation of Council resources
- support Council staff in determining matters in a timely manner.

4.3 Regulatory principles

The following principles establish Council's regulatory approach and will be embedded into its regulatory, compliance and enforcement actions.

1. **Risk-based:** Council will use a risk-based approach to regulation to ensure regulatory responses support the achievement of the key objectives of this policy.
2. **Evidence-based:** Council's Regulatory Framework will rely on the best available evidence to inform regulatory, compliance and enforcement decision-making.
3. **Proportionate:** Regulatory, compliance and enforcement action will be proportionate to the seriousness of the alleged non-compliance.
4. **Transparent:** Council will communicate regulatory, compliance and enforcement obligations clearly to the community, industry and other government stakeholders. The principles of procedural fairness will be applied during compliance monitoring and enforcement processes and Council staff will consider the 'public interest' in regulatory decision-making.
5. **Collaborative:** Council will work collaboratively with other regulators to share information where possible and avoid unnecessary regulatory duplication.
6. **Consistent:** Compliance monitoring and enforcement action, to the extent possible, will be applied consistently across all sectors of industry, the community and government.
7. **Effective:** Council will make regulatory decisions, including decisions regarding enforcement action, in an effective and timely manner.
8. **Accountable:** Council officers are accountable and will conduct compliance activities in an ethical manner in line with Council's Code of Conduct and recognised best practice.

4.4 Regulatory Compliance Model

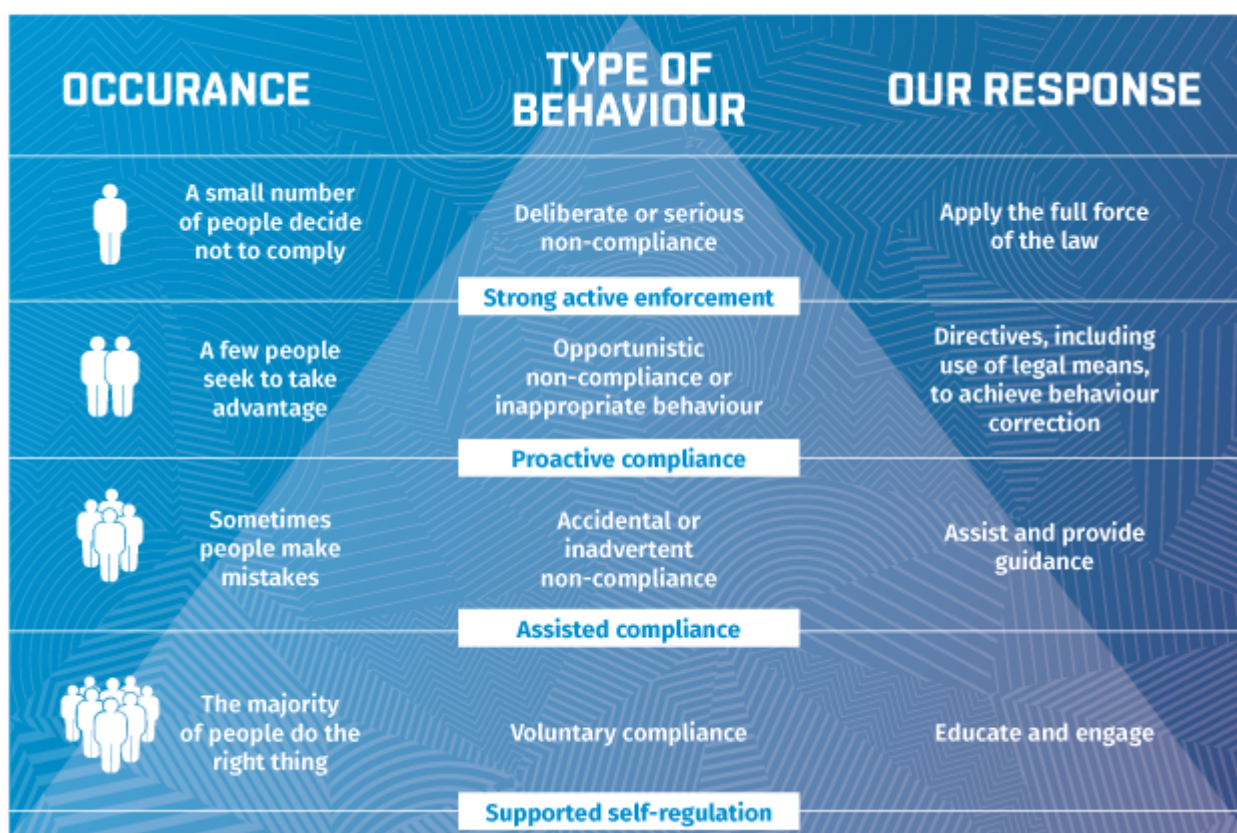
We seek to proactively deter unlawful conduct and promote future compliance. Our key objective is to achieve high levels of voluntary compliance – where possible, our compliance engagements will be for the purpose of assistance and education. Where an issue is high-risk or requires urgent action to stop the conduct, we may shift from education and engagement to enforcement action.

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Council recognises that the majority of people do the right thing. Regardless, some make mistakes and others seek to take advantage or decide not to comply. In response, our Regulatory Compliance Model is based on scaled and proportionate actions. We will:

- *educate and engage* – to support self-regulation and maximise voluntary compliance
- *assist and provide guidance* – through assistance to address accidental or inadvertent non-compliance
- *correct behaviour with graduated and proportional sanctions* – including use of directives and legal means, to address opportunistic non-compliance or inappropriate behaviour
- *apply the full force of the law* – in response to deliberate or serious non-compliance.

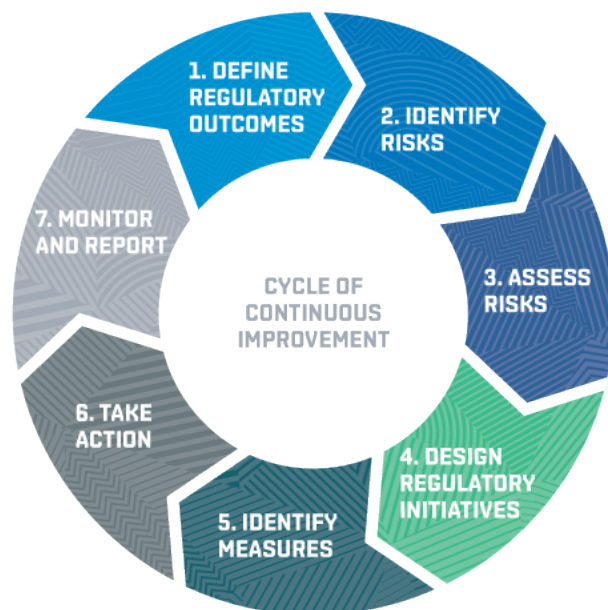
FIGURE 2: REGULATORY COMPLIANCE MODEL



4.5 Regulatory Management Lifecycle

In addition to the *Regulatory Compliance Model*, Council will use a standard process for managing its regulatory obligations. The management process is reflected in the *Regulatory Management Lifecycle*, which consists of seven key steps that work together to foster continuous improvement.

FIGURE 3: REGULATORY MANAGEMENT LIFECYCLE



1. DEFINE REGULATORY OUTCOMES	Develop clearly defined, measurable and achievable regulatory outcome targets
2. IDENTIFY RISKS	Identify and document a full range of historical, current and emerging risks that may affect Council's defined regulatory outcomes
3. ASSESS RISKS	Conduct risk assessments, which are considerate of a broad range of evidence, using Council's Enterprise Risk Management Framework
4. DESIGN REGULATORY INITIATIVES	Design and implement regulatory initiatives that will: <ul style="list-style-type: none"> ▪ support achievement of defined regulatory outcomes ▪ address identified risks ▪ be supported throughout implementation by project management, risk management, and budget management practices, and ▪ be monitored to support implementation and post implementation evaluation
5. IDENTIFY MEASURES	Identify measures to monitor and report on performance over time
6. TAKE ACTION	Allocate appropriate resources to support the implementation of initiatives, tailoring its response in a manner proportionate to the impact of the non-compliance
7. MONITOR AND REPORT	Monitor and report on its regulatory activities to support continuous improvement and the revision of risks.

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Review and Evaluation

This policy will be reviewed and evaluated every four years, with any amendments to be considered by the elected Council.

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Controlled Document Information

Authorisation Details

Folder No:	F2019/00690/01	TRIM Record No:	D09432960
Audience:	External - Development Planning and Regulation		
Department:	Environmental Regulation & Compliance	Officer:	Manager Environmental Regulation and Compliance - Derek Poulton
Key focus area(s):	Regulatory Compliance Framework		
Review Timeframe: Max < 4 years	4 years	Next Scheduled Review Date:	22 March 2025
Authorisation:	Adopted by Council - 22 March 2021		
Authorisation - Council Adoption Date:	22 March 2021		

Related Document Information, Standards & References

Related Legislation:	Environmental Planning and Assessment Act 1979 Local Government Act 1993 Protection of the Environment Operations Act 1997 Food Act 2003 Public Health Act 2010 Plumbing and Drainage Act 2011 Swimming Pools Act 1992 Boarding House Act 2012 Building Products (Safety) Act 2017 Building and Development Certifiers Act 2018 Contaminated Land Management Act 1997 Roads Act 1993 Restricted Premises Act 1943 Rural Fires Act 1997 Tattoo Parlour Act 2012 Trees (Dispute between Neighbours) Act 2006 Road Transport (Safety and Traffic Management) Act 1999 Companion Animals Act 1998 Impounding Act 1993	Governing Legislation
Related Policies:	Nil	Nil
Related Procedures, Guidelines, Forms, WHS Modules/PCD's, Risk Assessments, Work Method Statements:	Nil	Nil
Standards, COP's & Other References	Nil	Nil

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Definitions

Term / Abbreviation	Definition
Council	Lake Macquarie City Council
Policy	Regulated Activities Policy

Consultation (update for each version created)

Key Departments, Teams, Positions, Meetings:	Environmental Regulation and Compliance Development Assessment and Certification Corporate Legal Assets Management Environmental Systems
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Version History

Version No	Date Changed	Modified By	Details and Comments
1	August 2019	Lynne Harding	New Council Policy created