

Title: Design for Compliance: What would a strategic compliance operation look like?

Photo: Paint wash water discharged to a residential stream, courtesy of Auckland Council's Pollution Response Team

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Article:

The following article is a summary of a research project that sought to understand what strategic compliance at Auckland Council would be, as a part of the Auckland University of Technology Master of Business Administration programme. The research report is available from the authors.

Introduction

Auckland aspires to become the world's most liveable city, and integral to this aspiration is the effort to enhance the built and natural environments. To achieve this, Auckland Council has developed a range of strategies and plans focused on improving on what the city already has. However, of equal importance is the protection of these environments from damage and degradation. It is the day-to-day monitoring and enforcement work of Auckland Council compliance staff that prevents and reduces damage to the very things that council is seeking to enhance. However, the important link between becoming the world's most liveable city and protecting its environments is not necessarily well recognised; the opportunity for compliance to contribute to achieving 'world's most liveable city' status is not fully understood.

An opportunity exists to bridge the gap between the current compliance practice – which is primarily focused on responding to issued consents and public complaints – and Auckland's vision. Bridging this gap requires two things: understanding how compliance contributes to Council's strategic directives, and aligning the compliance operation to these

directives. This allows evaluation of the effectiveness of compliance activities in reaching Auckland's vision, which naturally leads to the possibility of leveraging those aspects to improve the overall effectiveness of compliance.

In essence, a shift is needed from focusing on how efficiently complaints are responded to and consents are monitored, to a focus on effective compliance that keeps Auckland on track to become the world's most liveable city.

How does compliance contribute to Auckland's vision?

The Auckland Plan sets out how Auckland is going to deliver on its vision, and the Unitary Plan seeks to action the direction set by the Auckland Plan. Analysis identified a clear strategic direction for the compliance operation, and particular Auckland Plan targets that are relevant to compliance. It identified that there are two broad drivers of strategic compliance:

- Restoring Auckland's mauri, by targeting sediment generating and other polluting activities, as well as protecting landscape, natural character and natural features from unlawful activity.
- Keeping Auckland liveable, by targeting activities that impact historic heritage, and protecting the quality of urban environments from unlawful activity.

Many of the activities subject to compliance have the potential to significantly impact one or both of these drivers. Further, some of the specific Auckland Plan targets are dependent on effective compliance; e.g., improving air quality and reducing sedimentation of Auckland's harbours. However, simply identifying the relevant strategic directives alone does not completely answer the question of what a strategic compliance operation would be. To meet its strategic directives, the compliance operation must continue to deliver – or improve upon – its reactive service, whilst simultaneously undertaking to proactively undertake work to achieve council's strategy.

What makes compliance effective?

Theoretical perspectives of regulatory operations set out the key aspects of successful regulatory operations as both risk management and the importance of creating a problem

solving culture, where employees can identify and respond to issues causing damage to the environment within their jurisdiction (Sparrow, 2000). International research has identified that undertaking inspections, coupled with clearly articulating the implications of non-compliance, has the greatest effect on influencing behaviour toward adherence to environmental regulations (Wu 2009; Eckert 2004; Peterson and Diss-Torrance, 2012).

This leads to a conceptual framework for compliance at Auckland Council whereby compliance, principally measured through inspections, becomes aligned to strategic directives through projects. For example, the strategic directive to reduce sediment leads to a project that identifies activities (consented and unconsented) generating sediment. This project seeks to identify where inspections – additional to those normally undertaken – may be required to increase adherence to council rules and standards. Figure 1 shows how the Council’s strategic direction can be translated into the day-to-day compliance operation. This presents an opportunity to understand how the activities of compliance officers link through to the overall vision of becoming the world’s most liveable city.

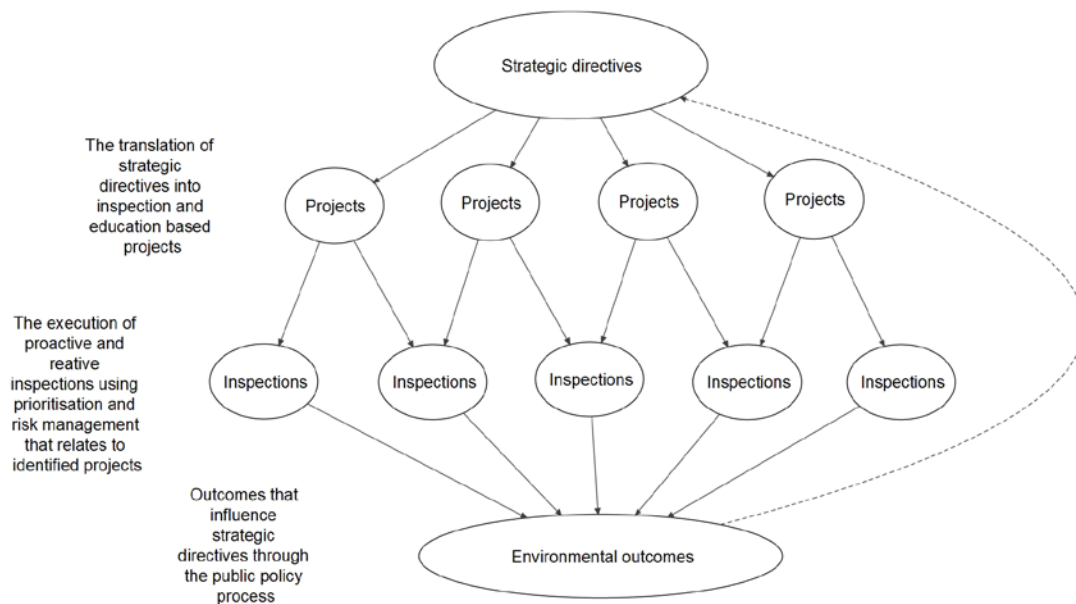


Figure 1: A conceptual framework for strategically aligned compliance

What can be done to increase effectiveness?

By understanding what it is that makes compliance activities effective, it is possible to then seek out ways to become *more* effective. Research on public sector operations identifies

that once a shift from focusing on efficiency to effectiveness occurs, it becomes possible to design an operation to increase those activities leading to effectiveness, and reduce those that do not (Teeuwen, 2011; Radnor and Johnston, 2013). Such an approach requires aligning business metrics to tasks that contribute to being effective, understanding how these tasks work their way through the organisation, and identifying how to maximise these tasks. This requires a high degree of employee ownership over the process and employee leadership of initiatives to maximise potential.

In the case of compliance, this entails a shift away from the numbers of consents and complaints responded to, toward measuring and enhancing tasks (e.g., inspections) that influence behaviour toward complying with environmental rules and standards. A key part of this is enabling a problem solving culture to develop through the application of strategically aligned projects, within a process that is owned by the employees working within it.

Conclusion

A paradigm shift is required to achieve effective and strategically aligned compliance. This entails a change to an operation focused on tasks that result in environmental benefit – principally inspections. A compliance operation aligned to relevant strategic directives presents an opportunity to demonstrate the important role of compliance in achieving Auckland’s vision of becoming the world’s most liveable city, whilst also providing a framework within which efforts can be focused on doing even more toward achieving the vision.

References:

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An example of how this strategic compliance framework compares to reactive compliance

Reactive compliance:

On the night of 7 August 2007, an above ground tank at a fuel stop discharged 18,500 litres of diesel to a tributary of the Mahurangi River, resulting in environmental impacts and the loss of potable water supply to the town of Warkworth. The former regional council was alerted to the spill by a number of phone calls from the public. The quick dispatch of pollution response staff avoided the diesel discharging beyond the river, and avoided damage to commercial oyster farms in the Mahurangi Harbour.

The Court found that the discharge from the tank was caused by vandalism during an attempted theft. The diesel tank was required to be enclosed within a bund capable of holding its entire 20,000l volume. However, as the tank was uncovered the bund filled with rainwater, and the tap to drain rainwater from the bund had been left open.

The spill resulted in significant clean-up and the local water treatment plant being shut down for 17 days. The Court found that the loss of potable water supply cost the district council \$354,905. The cost of the spill clean-up to the regional council was \$71,792. In total, the owner spent \$260,102 plus staff time on the spill clean-up. The Court issued a fine of \$28,500.

Strategic compliance:

A compliance officer responsible for the Warkworth area arrives at work and picks up a site meetings and inspections schedule for the area they are responsible for. This schedule sets out the tasks that must be completed that day (e.g. on-site meetings) that week (e.g. inspection of silt controls at a small earthworks site) as well as inspections to be completed by the end of the month (e.g. inspections of identified high risk activities).

After a nearby on-site meeting, the compliance officer visits the fuel stop to undertake a spot inspection. Earlier in the year a letter from the Council reminded the operator of their legal requirements for the upkeep of the diesel facility. This letter was sent following project work that identified discharges from above ground hydrocarbon facilities as posing a significant risk to the environment, and thus the mayor's vision of Auckland being the

world's most liveable city. This desk-top exercise identified all such facilities in the region from council records, and scheduled proactive inspections over a 12 month period for all sites not already subject to a resource consent.

The letter explained that Council officers may come by to inspect the facility, and that if it was found to be in non-compliance the operator could be liable for an instant fine and further enforcement action. Following receipt of the letter, the owner checked the tank and found that the tap to drain the bund had been left open, and decided to install a padlock on the tap to avoid it being tampered with.

The inspection finds the facility to be in full compliance. The compliance officer and owner discuss the issue of stagnant water within the bund, and the compliance officer suggests adopting a standard operating procedure which includes draining the bund whenever the tank is filled. After the inspection an attempted theft results in the contents of the tank discharging to the bund. No diesel enters the nearby stream.

Reference

Auckland Regional Council V Gubbs Motors Limited DC AK CRN-08088500246 [20 March 2009]