

The unique position of Local Government

Roads, rates and rubbish – this phrase has long grossly oversimplified the role of Local Government, particularly when it comes to regulation. The simple truth is, Local Government does a lot of regulatory heavy lifting, often with limited, and dwindling, resources.

In addition, Local Government has a unique position where they can occupy the roles of both regulator and regulated. While they seem separate, they actually interact with each other.

Local Government the Regulator

In 2014, the NSW Independent Pricing and Regulatory Tribunal undertook a review of the regulatory responsibilities of Local Government in NSW. They found that there were 121 regulatory functions that originated from 67 NSW Acts! To put this in perspective, the NSW EPA is responsible for the administration of 12 NSW Acts.

The range of Local Government regulatory responsibilities is huge. As a small snapshot, Local Government can be responsible for:

- Imposing and enforcing water restrictions,
- Authorising bush fire reduction work,
- Inspection of tattoo and skin perpetration studios,
- Controlling the number and/or type of animals at a property,
- Controlling smoking in designated smoke-free areas,
- Investigating pollution incidents,
- Inspecting buildings to determine compliance with fire safety standards,
- Ensuring food safety,
- Making and enforcing heritage orders, and
- Inspection of water-cooling systems (for Legionella).

This raises obvious issues of capacity and capability issues, especially in smaller rural and regional Local Governments. The “dog catcher” can no longer just catch stray dogs. Local Government regulatory officers must be a jack-of-all-trades to carry out their regulatory roles effectively, all in a complex and highly resource-constrained environment.

Local Government the Regulated

Local Governments, in undertaking their functions, are also subject to extensive regulation. The main areas where this occurs are:

- Work Health & Safety – Local Government employs people in a range of jobs that can expose them to just about every WHS hazard imaginable. Like for any employer, the risks posed by these hazards need to be identified, assessed and managed.
- Environmental – Local Government activities that potentially or actually impact on the environment in NSW are regulated by the Environment Protection Authority (EPA). Roadworks, earthworks, vegetation clearing, street cleaning, etc could all get the attention of the regulator. Other activities undertaken by Local Government are at a scale that requires licensing (e.g. landfills, saleyards, sewage treatment plants, quarries, etc).

How are these two roles linked?

Local Government can be accused of hypocrisy or double standards when the standards applied as a regulator do not match their own actions. For example, a property developer would be justifiable in being angry after been fined for not having adequate sediment and erosion controls, and then seeing Local Government works being undertaken with no controls.

In short, Local Government’s own compliance performance can impact on their credibility as a regulator.

Who can I talk to about balancing these dual roles?

Get in touch with JS Regulatory Services. We love making regulation work best, for everyone.



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