

Compliance and enforcement policy

Policy No. 7210.100.E.R

1 Purpose

The purpose of this policy is to summarise City of Darwin's approach to compliance and enforcement. The community has an expectation that City of Darwin will comply with applicable legislation. The policy explains how City of Darwin manages activities to achieve compliance.

City of Darwin's role is to uphold its statutory responsibilities for regulatory activities in accordance with legislation. This policy provides the framework for the investigation and enforcement of regulated activities and City of Darwin's response to unlawful activities.

In ensuring best practice and adhering to legislative requirements, City of Darwin's compliance and enforcement activities will demonstrate:

- that City of Darwin values those who voluntarily comply with the law through educative process
- proportionality in decision making, and
- transparency in the process of investigation and enforcement.

2 Scope

This policy relates to the activities undertaken in accordance with legislation and / or City of Darwin policy and includes activities related to the control of animals, parking, environmental protection, advertising signs and other regulatory activities.

Council acknowledges that it has an obligation under Chapter 13 of the Local Government Act 2019 (NT) to ensure the exercise of its regulatory power is carried out with consistency and the basic principles of justice and fairness.

3 Policy statement

City of Darwin has established Enforcement Guidelines for the management of City of Darwin's regulatory activities and implementation of enforcement actions.

The policy ensures that City of Darwin's enforcement practices are lawful, safe, fair, practical, and consistent and that City of Darwin discharges its statutory obligations in the investigation and enforcement of unlawful activities.

3.1 Principles

Enforcement actions are undertaken within the context of both a legal and policy framework.

City of Darwin staff will carry out their enforcement related work with due regard to the following principles:

- proportionality
- consistency
- transparency
- procedural fairness
- natural justice
- evidence-based decision making

3.2 Working with other regulators

City of Darwin will liaise with other external agencies, for example Northern Territory Police Service, Environmental Protection Authority, Department of Housing and Northern Territory Health, to minimise duplication, avoid inconsistencies and to ensure that any proceedings instituted are for the most appropriate offence.

3.3 Works in default

Under some legislation City of Darwin may execute works in default instead of, or as well as, taking legal action. In such cases the expenses of default work may be recovered by City of Darwin and can be charged against the land, or in the case of a negotiated cost, met by the defaulter on completion of the works.

Where City of Darwin takes such action it will take all reasonable steps to notify the interested parties.

City of Darwin may consider exercising its work in default power where it is legally possible, reasonable, practicable and/or there is a will on behalf of the defaulter. For example, in the interest of community health, safety, amenity or environmental harm, City of Darwin may consider an immediate remedy by agreement, or by seeking compliance without prosecution.

Where City of Darwin takes such action it will notify the interested parties, seek agreement where possible and carry out the works.

3.4 Injunctions

An injunction may be sought where there are sufficient grounds and in particular where the circumstances present a potential and/or immediate threat to community health, safety, amenity, environmental harm or are causing extreme distress. Consideration at this time will be given to the possibility that City of Darwin may face a damages claim in the event that the eventual prosecution is not proven.

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Responsible Officer: General Manager Community

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3.5 Authorised officers

City of Darwin will appoint staff and maintain a register of authorised officers to regulate in accordance with By-Laws, City of Darwin policy, and Enforcement Guidelines. Authorised officers will be provided with the appropriate training and attain qualifications required to perform their role.

The role of an authorised officer is to mitigate, guide, educate and enforce in order to uphold community standards and reflect the values and culture of City of Darwin.

4 Definitions

Authorised Officer means an Authorised Person, being a person who is authorised by an Act, Regulation or By-Law to exercise prescribed powers.

Compliance refers to an agency, corporation, or person taking steps to comply with relevant laws and regulations.

Enforcement means a range of actions taken by City of Darwin to ensure that a person or organisation complies with their statutory obligations.

Proportionality means City of Darwin will ensure that any enforcement action is proportionate to the risk by taking into consideration the circumstances of the offence, behaviours and risk.

Prosecution means conduct of legal proceedings against a person or organisation, for alleged unlawful activity.

Statutory obligation means an obligation that is created under a law.

Unlawful activity means any activity or work that has been or is being carried out:

- contrary to the terms or conditions of, or in the absence of, a licence, permit, registration, approval or other written authorisation from City of Darwin
- contrary to a legislative provision regulating a particular activity or work.

5 Legislative references

Local Government Act 2019 (NT)

City of Darwin By-Laws 2023

6 Procedures / related documents

City of Darwin 0033.100.E.R Privacy Policy

City of Darwin 0047.100.E.R Regulatory – Miscellaneous Policy

City of Darwin 7210.001.I.N Enforcement Guidelines

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7 Responsibility / application

The General Manager Community is responsible for ensuring that this policy is adhered to and understood.

The General Manager Community is accountable for maintaining the currency and accuracy of this policy, associated procedures and guidelines.

Authorised Officers will enforce compliance activities within the Darwin municipality in line with this policy.

This Policy will be reviewed every four years or in response to significant changes in legislation or other circumstances which affect its effectiveness and validity.

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