

Survey & Title Compliance Strategy

Draft for feedback

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Introduction

Purpose

The purpose of this strategy is to update our approach to compliance in the property rights system.

Toitū Te Whenua LINZ is the government's lead agency for the property rights system. Our purpose is to understand, develop and care for whenua, moana and arawai. Land is central to Aotearoa New Zealand's identity and future prosperity. Whenua, moana and arawai are taonga that connect us all, and we have a responsibility to understand, develop and care for the resources entrusted to us. We create, manage and share information about our land, waterways and oceans for the benefit of all current and future New Zealanders.

This strategy describes the shifts we intend to make in delivering compliance outcomes over the period 2023-2027. It sets out the principles that will guide our compliance work, and how we will prioritise our compliance toolkit to support stakeholders and improve compliance outcomes.

While this strategy describes the principles that will guide our compliance interventions and enforcement activity, it does not set out an enforcement policy. Non-compliance warranting enforcement action remains a rare occurrence. Our enforcement responses in those circumstances are exercised in accordance with existing regulatory processes.

Recognising and prioritising the broad range of compliance activities and tools at our disposal will better enable us to proactively identify and implement opportunities to improve compliance – such as through educating users of Landonline - and provide us with proportionate responses to manage or mitigate any risks arising from non-compliance.

This compliance strategy links our compliance activities to our Strategic Intentions

This compliance strategy has a role to play in supporting the strategic outcomes set out in our Statement of Strategic Intentions for the years 2023 to 2027 ([here's the link](#)). We identified four strategic outcomes that will shape our work in coming years. While this strategy is relevant to all our strategic outcomes, it is particularly relevant to our strategic outcome "We are a trusted regulator, delivering fair and transparent regulatory systems."

This compliance strategy will support this strategic outcome by:

- Providing clarity to our customers and across the organisation on our approach to compliance and how that approach supports our strategic intentions
- Laying the foundations for a sustainable and enduring framework for the effective delivery of compliance activities into the future
- Helping customers understand the outcomes our regulatory systems are expected to deliver, and the risks to those outcomes managed through our compliance activities
- Assisting regulated parties to comply with their obligations
- Ensuring our compliance activities and our responses to non-compliance are transparent, fair, and effective.

Lawyers, conveyancers, and surveyors are at the centre of our compliance strategy

The strategy also recognises the pivotal role played by lawyers, conveyancers, and surveyors in delivering compliance outcomes. While Toitū Te Whenua LINZ is responsible for maintaining the land transfer register, cadastre, and geodetic markers that officially record these interests, it is these trusted professionals who submit instruments and surveys for registration, and ensure they comply with relevant laws and regulations.

Our ultimate objective with this new strategy is to better support lawyers, conveyancers, and surveyors to deliver services that comply with the rules and standards. This new approach is intended to support that objective by enabling us to better manage our compliance resources, prioritise our compliance efforts on the highest opportunities and risks, and coordinate our compliance activities across our regulatory functions.

Lawyers, conveyancers, and surveyors can expect to see the following shifts in our approach to delivering compliance outcomes:

Shifts in our approach to compliance



From	To
Focus on identifying where customer have made errors	We emphasise helping our customers get it right the first time
Legacy systems and processes not always user-friendly or intuitive	We extend our collaborative and customer-centric approach to service design
Extensive use of manual verification processes for non-automated transactions	We design our business rules to support automation and the use of digital validation tools to speed up the approval and registration process
Our processes do not incentivise first time compliance	We design our processes to incentivise first-time compliance
Our risk tolerance is inflexible and does not always recognise the professional responsibilities of lawyers and surveyors	We adjust our approach to risk based on the nature of the transaction, likelihood and consequence of error, and compliance history of the customer
Limited use of data to understand risk and target compliance activities and opportunities for improvement	We use business intelligence to understand risks, target intervention, and inform service design that supports first-time compliance

Compliance strategy context

Overview of the Property Rights regulatory system

A well-functioning property rights system that has public trust and confidence underpins every modern economy. It plays an important role in creating incentives for investment that contribute to economic growth and prosperity.

Property rights also define our special relationship with the land (nga whenua), bodies of water (nga moana), and waterways (nga arawai). The system of property rights in New Zealand support important social outcomes, such as security of tenure for housing, and access to public land and amenities for recreational and cultural purposes. The property rights system also plays a role in supporting the objectives of other government objectives, including fulfilling the Crown's obligations under Te Tiriti o Waitangi.

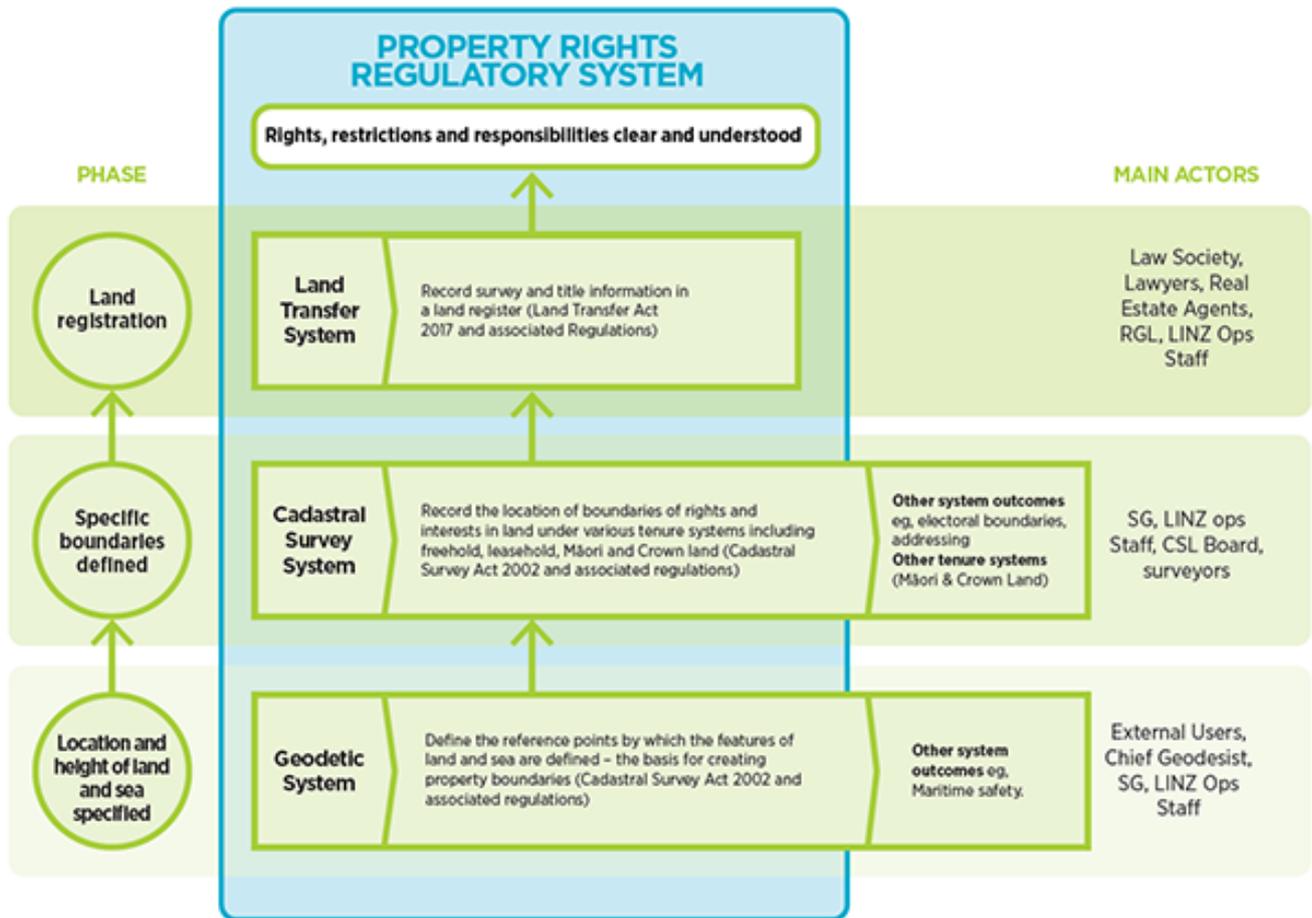
The property rights regulatory system allows for land-based property rights to be securely held, traded, and taken as security for mortgage lending. New rights and interests in land may be granted and created through the processes prescribed in the Land Transfer Act and other statutes, such as the Unit Titles Act.

The system ensures that public records are maintained with authoritative and trusted information about the location and boundaries of land parcels and details of registered ownership and other rights and interests. These records ensure that landowner's rights and interests are known and understood. They enable those who wish to acquire or develop land to do so with confidence as to the legal validity of the title.

System structure

The property rights regulatory system consists of three sub-systems:

- The **Land Transfer system** provides for rights and interests in land to be exercised by registering indefeasible title to a defined parcel of land that is held under the Land Transfer Act 2017 and associated regulations.
- The **Cadastral Survey system** uses geodetic spatial reference points to define specific boundaries of land so rights to and interests in that land can be attributed under the Cadastral Survey Act 2002 and associated regulations.
- The **Geodetic system** defines the reference points by which the features of land and sea are defined under the Cadastral Survey Act 2002 and associated regulations and standards. This allows for the location and height of land and sea to be specified.



System purpose and objectives

The primary objective of the property rights regulatory system is to provide confidence and certainty about the rights, restrictions and responsibilities relating to ownership and other interests in land.

The system achieves those objectives by delivering and maintaining the following outcomes:

Land Transfer System

- Owners and rights holders of estates and interests in land registered under the Land Transfer Act have confidence that their rights are secure and guaranteed.
- Owners of estates and interests in land can easily and confidently transfer or deal with their estates and interests in land, and create new property estates or interests.
- The register of land provides an authoritative record of estates and interests in land and their boundaries.

Cadastral Survey System

- The cadastre provides the authoritative record of the spatial extent of property interests and estates.
- The cadastre can be relied on and used efficiently to support the register of land and other tenure systems and for achieving other government and public good outcomes.

Geodetic System

- The geodetic reference points provide the spatial framework for locating and mapping property boundaries through the cadastral survey system.

Legislation in the property rights system

Land Transfer System

Toitū Te Whenua's functions under the land transfer system, and the manner in which land transactions must be formalised and submitted for registration by lawyers and conveyancers, are primarily governed by the Land Transfer Act 2017. The Act establishes the Registrar-General of Land as the statutory officer responsible for maintaining public confidence in the land transfer system. The objectives of the Registrar-General of Land are to:

- Ensure an efficient and effective system for registering dealings in land
- manage the risk of fraud and improper dealings
- maintain public confidence in the land transfer system
- maintain the integrity of the land register and the right to claim compensation under the Land Transfer Act 2017.

Other statutes and legislative requirements that impact directly or indirectly on the land transfer system include:

- the Property Law Act 2007
- the Building Act 2004
- the Unit Titles Act 2010
- the Resource Management Act 1991.

The Land Transfer System also plays an important role in assuring land transfers and registrations do not compromise property rights or interests established or protected under other tenure systems, including land subject to:

- the Marine and Coastal Area Act 2011
- Te Ture Whenua Māori Act 1993
- Treaty Settlement legislation.

Cadastral Survey System and Geodetic System

Toitū Te Whenua's functions under the cadastral survey and geodetic systems, and the manner in which surveys must be formalised and submitted for inclusion in the cadastre by licensed surveyors, are primarily governed by the Cadastral Survey Act 2002.

The Act establishes the position of the Surveyor-General as the statutory officer responsible for:

- maintaining the accuracy of the cadastre through setting standards and undertaking audits
- maintaining the national geodetic and survey control systems.

The cadastre is also used to describe land subject to other tenure systems, including Māori and Crown land, and is used for other system outcomes, such as defining electoral boundaries and for addressing. The geodetic system supports the cadastre, and also plays a role in supporting other system outcomes, such as Maritime Safety.

Actors in the Regulatory System

The Legislation, Standards and Rules are designed to detect and prevent fraud or other unauthorised dealings.

We rely on conveyancing practitioners and surveyors, as qualified professionals, to play a role in safeguarding the integrity of the property rights system. Our relationship with these regulated professionals is built on trust. These regulated professionals implement legal requirements for certification and registration of land transfer instruments and surveys, and their feedback helps us ensure that these requirements adapt to any changes in the wider operating environment. They are professionally accountable for their compliance with the legislation and regulations, and with the Rules and Standards set by the statutory officers.

These professionals are also accountable to professional and statutory bodies, who have primary responsibility for oversight and regulation of the qualifications and conduct.

Land Transfer System

Lawyers and conveyancers are the primary interface between the public and the land transfer system. They play the frontline role in ensuring only authorised transactions are registered, and therefore are critical to the functioning of the land transfer system and maintenance of the integrity of the register of land.

- Law and conveyancing firms
- Lawyers
- Conveyancing practitioners

Professional bodies oversee the certification and admission of professionals, and oversee their on-going membership. They regulate the conduct of professionals, and are responsible for the investigation of complaints about their conduct.

- New Zealand Law Society
- New Zealand Society of Conveyancers

The Lawyers and Conveyancers Disciplinary Tribunal is the statutory body responsible for the adjudication of complaints made against lawyers and conveyancers.

Cadastral Survey System and Geodetic System

Cadastral surveyors must be licensed to undertake cadastral surveys. They are responsible for complying with the Cadastral Survey Rules, directing cadastral surveys, and lodging surveys on Landonline. They and their firms work closely with developers and territorial authorities, for example, when developers apply to subdivide or re-zone land for the purpose of on-selling or building, and with territorial authorities who consent to the subdivision and approve title plans.

- Survey firms
- Licensed cadastral surveyors

Survey and Spatial New Zealand and the Institute of Cadastral Surveying are professional associations that monitor and maintain the professional and ethical conduct of members in New Zealand.

The Cadastral Surveyors Licensing Board is the statutory body responsible for the licensing of cadastral surveyors competent to conduct cadastral (land title) surveys, setting standards required for the licensing of surveyors, and the adjudication of complaints against surveyors.

Compliance risks to system objectives

Our compliance activities support the delivery of system objectives by managing risks arising from non-compliance with the legislation, regulations, standards, and directives for registration of land transfers and surveys.

The Land Transfer Act 2017 and the Cadastral Survey Act 2002 impose obligations on participants in the regulatory system. In addition to the lawyers, conveyancers, and surveyors that interact directly with Toitū Te Whenua LINZ and Landonline, these participants include buyers and sellers of interests in land, and banks and others holding mortgages or other interests.

Instances of deliberate or intentional non-compliance by practitioners in the property rights system are rare. Compliance issues involving lawyers, conveyancers, or surveyors generally arise through simple error or a lack of understanding of the regulatory

requirements. The legal requirements for certification and registration of land transfer instruments and surveys are also wide-ranging and often complex, and this complexity can create barriers to first-time compliance.

The most commonly noted barriers to first-time compliance by practitioners interacting with Toitū Te Whenua LINZ include:

- Errors attributable to a lack of familiarity with Landonline
- Lack of awareness or accessibility of guidance and other resources published by Toitū Te Whenua LINZ
- Inconsistent advice provided by Toitū Te Whenua LINZ
- Deficiencies in the design and implementation of robust internal quality control systems and training within firms
- The Standards, Rules, and Guidelines are complex, can be difficult to follow, and may overlap or be inconsistent with similar requirements imposed under other regulatory systems (such as the Anti-Money Laundering / Countering the Financing of Terrorism system)
- Ambiguous expectations for accountability for compliance
- An overall increase in new title work and complex transactions.

With recent improvements to Landonline, most title-related transactions are now validated through automated eDealing rules, with little or no need for human intervention by LINZ staff. The validation of particularly large or complex transactions – such as the creation of new subdivisions – can be harder to automate.

In addition, some instruments and surveys require the exercise of professional judgement, as the regulations, rules, and standards cannot always provide bright-line rules to resolve all possible issues, and must instead rely on broader principles or standards, supplemented by guidance. As a consequence, differences may occur between practitioners which are objectively reasonable and that need to be resolved by Toitū Te Whenua LINZ staff. Our own staff are not immune to this issue, which can lead to inconsistencies in the validation of complex instruments or surveys, or in the advice we provide to practitioners.

The key compliance risks for the property rights system are:

Land Transfer System risks

- Registration error resulting in unauthorised or unlawful registration of an interest, right, or responsibility
- Practitioner error or non-compliance with regulatory processes (Landonline business rules, Standards, or Directives)
- Inconsistency between the boundaries described in the title and the boundaries pegged through the survey

- Fraudulent or other intentional improper dealings resulting in unauthorised or unlawful registration of an interest, right, or responsibility
- Unauthorised use of Landonline
- Unauthorised practice as a lawyer or conveyancer
- Transactions contrary to the rights, interests, or responsibilities protected by other tenure systems, including Māori Land or Marine and Coastal Areas.

Survey system risks

- Approval error resulting in incorrect boundary location or incorrect recognition of rights
- Practitioner error in particulars, resulting in boundary error
- Practitioner error or non-compliance with regulatory processes (Landonline business rules, Standards, Directives, or Guidelines)
- Inconsistency between the boundaries pegged through the survey and the boundaries described in the title
- Unauthorised practice as a surveyor
- Intentional or unintentional disturbance of survey marks (including geodetic marks)

Geodetic system risks

- Intentional or unintentional disturbance of geodetic marks and associated infrastructure

Our Approach to Compliance

The Compliance Toolkit

Regulators have a range of tools at their disposal for delivering regulatory outcomes. These range from publishing information about compliance, to engaging with regulated parties and other stakeholders in the regulatory system, to auditing regulated parties and monitoring their compliance, to undertaking various kinds of enforcement actions or other compliance interventions.

At the heart of our approach to compliance is understanding and making efficient use of the full range of tools at our disposal in a targeted, flexible, and coordinated way in order to deliver our compliance priorities and regulatory outcomes. We want to make full use of the range of compliance activities and responses available to us as regulators, and prioritise them so that we choose the right tools to assist regulated parties to achieve first-time compliance.

We roughly group the tools available for use in our compliance activities into four categories - see Figure 1 below.

Figure 1: Core compliance activities

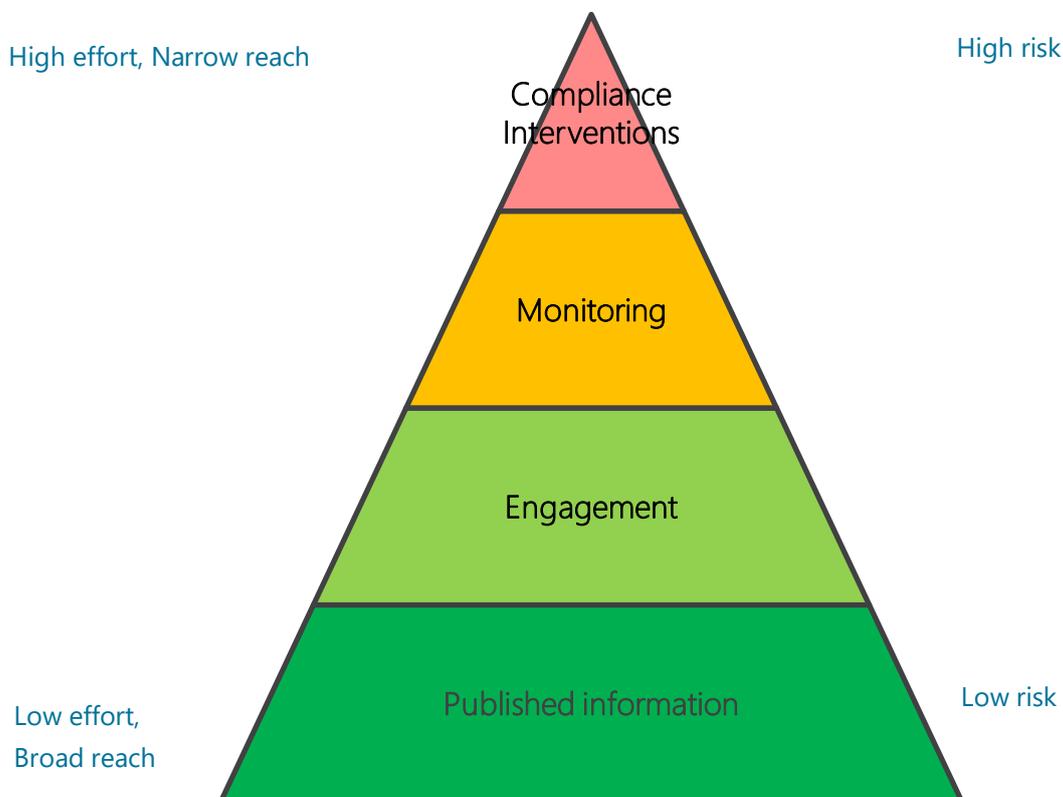


We recognise that parties by-and-large want to and are eager to comply. Our approach to compliance is about seeking out and prioritising opportunities to make compliance as easy as possible. Risk management actions – such as targeted monitoring or enforcement activities to correct non-compliance – should be the exception, rather than the norm.

We accordingly prioritise our compliance activities according to three factors (see Figure 2, below): Reach, Effort, and Risk.

- The Reach (or Impact) of our compliance activity takes into consideration the number of regulated parties reached by the activity, as well the likelihood the activity will positively contribute to promoting regulated party behaviours (ie, promoting compliance). We want to prioritise activities that reach the broadest number of customers and stakeholders. This typically means emphasising public guidance and information, and engagement in forums that maximise our outreach.
- Effort takes into consideration the internal resources, time, and cost of engaging in the regulatory compliance activity. In general, guidance and engagements are less-resource-intensive than monitoring and enforcement activities.
- We want to prioritise our efforts to manage the non-compliance risks that are most likely to impact the outcomes the regulatory system is intended to deliver. The more significant the risk, the more likely we are to escalate our compliance responses to make use of the tools that allow us to target the risk, including through a compliance intervention.

Figure 3: How we prioritise compliance activity



Published information

Useful, timely, and accessible information is the foundation of an effective compliance strategy. We recognise that the majority of regulated parties want to comply, and that to support voluntary compliance we must make available useful, understandable, and actionable information about their obligations. Published information supports compliance by making regulatory obligations clear and accessible, including the consequences of non-compliance. Making guidance and other information about the regulatory system publicly available is also the most efficient means for achieving compliance outcomes.

Published information includes:

- Application guidance for regulated parties or their agents, such as guidance on how to apply, what to expect after application, and answers to frequently asked questions
- Information about how we exercise our regulatory functions, such as publication of our enforcement guidelines, compliance strategy, or our decision-making frameworks or criteria
- Guidance or other quasi-regulation, such as guidance for regulated parties on how to comply with statutory or other conditions, record-keeping obligations, or other duties
- An overview of the regulatory system, to assist people in understanding the purpose of their compliance obligations
- The public commitments we make regarding the timeframes for handling or processing applications, and how we will engage with parties.

The information we prioritise for publication will help to define our compliance priorities and align our other compliance activities. The information we publish about the regulatory regime, and the supporting guidance we provide, will be the key messages we deliver as part of our engagements with regulated parties and their representatives.

Engagement

We routinely engage with regulated parties and other important stakeholders. These engagements may be reactive (in response to a request for engagement), or proactive, initiated by Toitū Te Whenua LINZ.

Engagement provides an effective mechanism to-

- Gain key customer insights, such as better understanding customer concerns and issues with interactions with Landonline and the regulatory system, allowing us to identify new opportunities to assist with compliance
- Provide more targeted messaging to assist customers with compliance
- Identify and mitigate risks of non-compliance.

We see our engagements as an opportunity to promote and reinforce the information we make available to support first-time compliance and to provide more information about our compliance priorities.

Monitoring

Proactive monitoring identifies potential compliance issues, allowing us to identify weaknesses in our published information or processes that may be contributing to compliance issues, or other opportunities to improve compliance. Monitoring is also used to identify any instances of intentional non-compliance, which may lead to compliance interventions or, where necessary, enforcement responses.

Monitoring activities include:

- Analysis of transactions registered through Landonline, to better understand where there may be issues or questions about our processes
- Desk-top or on-site audits of regulated parties or their advisors (eg, e-dealing compliance reviews, law firm audits, and survey on-sites and desktop)
- Sector monitoring and general information gathering and analysis to understand changes in the survey and title environment that may impact on regulatory outcomes and customer compliance.

Compliance interventions

Compliance interventions include any targeted activity intended to directly manage a risk to regulatory outcomes arising from non-compliance. In most cases, compliance interventions focus on a specific regulated party.

We use a range of intervention mechanisms to address specific instances of non-compliance or potential non-compliance. These include investigations to understand whether non-compliance has or is likely to occur because of identified concerns, the issuance of targeted guidance or advice to help the party understand their legal obligations, or warning letters.

We prioritise our investigations and (if necessary) enforcement responses to potential non-compliance in line with our published compliance objectives. We also use compliance interventions as an opportunity to improve our other compliance activities. For example, we use compliance interventions to improve the quality and accessibility of the information we publish, and we to identify key messages for our engagement activities. Compliance interventions may also be used to improve and better target our monitoring activities.

Our preference is always to promote voluntary compliance in a productive and collaborative manner. In some instances that may include creating disincentives to non-compliance by making the risk of detection and penalisation greater than the benefits associated with non-compliance.

Principles guiding our approach to compliance

Our approach to compliance is guided by the following principles:

- We are risk-based and outcomes-focused
- We are customer-centric and responsive
- We are agile and collaborative
- We are transparent and predictable
- We are fair, reasonable, and proportionate in responding to non-compliance
- We are supported by strong, secure technology platforms.

These principles reflect our compliance ethos. For each of these principles, we have articulated our expectations of how they will be reflected in our culture and in practice.

Risk-based and outcomes-focused

Our compliance strategy is about making effective use of compliance tools and resources to manage the key risks to achieving regulatory outcomes.

- We will focus our compliance efforts on the most significant risks and opportunities to achieving regulatory outcomes.
- We will proactively identify and monitor risks to the regulatory outcomes.
- We will measure the impact of our compliance activities on regulatory system outcomes and risks.

This principle plays an important role in the delivering the shift “We adjust our approach to risk based on the nature of the transaction, consequence of error, and compliance history of the customer”.

Customer-centric and responsive

We embrace the ethos of customer-centric and responsive regulation. Our customer-centric approach and commitment to being a responsive regulator underpins all of the shifts we expect to deliver through this compliance strategy, and is particularly important for the contributing to the shifts:

We emphasise helping our customers get it right the first time

We extend our collaborative and customer-centric approach to service design

This principle will be reflected through the following activities:

- We will make it as easy as practicable for customers to comply.
- We will proactively support customers.

- We will seek to understand the interests and priorities of customers and other important stakeholders.

Agile and collaborative

The operational functions that support our compliance activities are often split between different units, squads, teams, or individuals within Toitū Te Whenua; to be effective, we need to drive, facilitate, and support on-going communication between these teams to ensure they are aligned with the compliance objectives. We also recognise that our compliance activities do not occur in a vacuum, but work in concert with the activities of other stakeholders, such as the professional and statutory bodies responsible for overseeing conveyancing professionals, lawyers, and surveyors.

- We have a shared sense of purpose and strategic direction.
- We will coordinate compliance activities across functions, teams, and regulatory systems. We will provide customers with consistent and joined-up advice.
- We will build and maintain a learning culture where we can respond to compliance challenges, adapt our compliance activities to the future, and recognise compliance opportunities.
- We will also collaborate with other regulators, where appropriate, to align our compliance activities.

Transparent and predictable

- We will provide useful information to regulated parties and other stakeholders and interested parties about their compliance obligations, our compliance activities and priorities, and about the consequences of non-compliance.
- We will be clear about the regulatory outcomes we are seeking to achieve, clearly articulate our compliance objectives, and the timeframes for achieving them.
- We will set clear expectations - through published guidance, one-on-one and public engagements, auditing activities, and enforcement responses – for those interacting with us.

Fair, reasonable, and proportionate in responding to non-compliance

While instances of intentional non-compliance in the property rights system are rare, they can and do occur.

In addition to responding to intention non-compliance, in some cases we might identify a need for compliance interventions to remedy consistent or significant non-compliance concerns.

Where an intervention is necessary, we want that intervention to be fair, reasonable, and proportionate to the nature of the non-compliance.

- We will use the full range of compliance interventions and incentives to support compliance outcomes.
- We will prioritise our compliance responses according to risk, effort, and reach.
- We will be proactive in responding to potential non-compliance, and make sure our risk management controls and compliance interventions are proportionate to the risks.

Strong, secure technology platforms

Landonline is the primary mechanism through which surveyors, lawyers and conveyancers transact with us. Automated eDealing business rules help make these interactions easier, and the user experience is equally important. Our technology platforms – and Landonline in particular – will play a key role in two key shifts:

- We extend our collaborative and customer-centric approach to service design, and
- We design our business rules to support automation and the use of digital validation tools to speed up the approval and registration process.

This principle is reflected through the following activities:

- We will continue to invest and develop our strong technology platforms to make it as easy as practicable for customers to comply.
- We will ensure our technology platforms are user-friendly and intuitive, and we will seek feedback from our customers to understand wants, needs, and priorities for our technology platforms.
- We will use information from our technology platforms and investments to improve first-time compliance, help identify drivers of compliance and non-compliance, and new or emerging risks to compliance.

Engaging with customers on compliance priorities

Compliance is a journey, not a destination.

We want to continuously improve first-time compliance. To be successful, we need to work with lawyers, conveyancers, surveyors, and other customers and stakeholders in a cycle of continuous improvement.

Customer engagement will play a central role in this process. These engagements will help us identify opportunities to improve the systems, people, and processes that underpin our compliance activities.

Landonline will play an important supporting role in delivering many of the shifts in our approach to compliance. We will continue to work closely with users of Landonline to improve the user experience in order to leverage the significant investments we have built through the STEP programme,.

In line with the shifts we have described, we will be guided by our compliance principles and the issues and opportunities identified in our customer engagements to develop our compliance programme. Compliance initiatives will be rolled out incrementally over the period covered by this compliance strategy (2023 – 2027). This will give us an opportunity to monitor the impact of our compliance activities, and to update our priorities to address any emerging compliance trends or opportunities.