

Regulatory Assurance Statement 2022–23

NSW Environment Protection Authority Board



The EPA Board is required to provide the Minister with an annual regulatory assurance statement. This summarises how successful the EPA has been in reducing risks to human health and preventing the degradation of the NSW environment and how the level of environmental protection in NSW compares with other Australian jurisdictions

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ISBN 978 1 922963 43 7
EPA 2023P4470
October 2023

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An aerial photograph of a rocky stream flowing through a lush, green forest. The water is dark and clear, reflecting the surrounding foliage. The rocks are brown and jagged, creating a natural barrier for the water. The vegetation is dense and vibrant green, covering the banks and the surrounding area. The overall scene is serene and natural.

Acknowledgement of Country

The NSW Environment Protection Authority acknowledges the Traditional Custodians of the land on which we live and work, honours the ancestors and the Elders both past and present and extends that respect to all Aboriginal people.

We recognise Aboriginal people's spiritual and cultural connection and inherent right to protect the land, waters, sky and natural resources of NSW. This connection goes deep, and has since the Dreaming.

We also acknowledge our Aboriginal and Torres Strait Islander employees who are an integral part of our diverse workforce, and recognise the knowledge and wisdom embedded forever in Aboriginal and Torres Strait Islander custodianship of Country and culture.

Dharawal Country, Royal National Park, NSW

EPA Statement of Commitment to Aboriginal Peoples

The NSW Environment Protection Authority acknowledges Aboriginal peoples as the enduring Custodians of the land, sea, waters and sky of New South Wales.

We recognise the entire NSW landscape, including the lands, waters, plant and animal species, and seas, has spiritual and cultural significance to all Aboriginal peoples of NSW. By this understanding there is no separation of nature, wellbeing and culture. The health of the natural environment, and the health of people and culture, are intimately connected.

Upon the release of this Statement of Commitment and in the spirit of reconciliation, the EPA is committed to:

1. Work in respectful partnership with Aboriginal peoples
2. Actively learn from, and listen to, Aboriginal voices, cultures and knowledges
3. Respect Aboriginal people's knowledges and science as an equal to western science
4. Weave Aboriginal knowledges and science with conventional science into the EPA's decision making
5. Act boldly and bravely to play our part to mend and heal Country together
6. Ensure Aboriginal knowledge, science and Indigenous Cultural Intellectual Property is protected, and Aboriginal peoples have Free, Prior and Informed Consent
7. Address both the tangible and intangible cultural elements of environmental protection
8. Deliver on results that have direct benefits for Aboriginal communities
9. Embed consistent, meaningful and trustworthy engagement with Aboriginal communities
10. Develop Aboriginal cultural competency across the agency
11. Increase Aboriginal employment across the agency to exceed public sector Aboriginal employment targets, and to identify specific occupational gaps
12. Monitor the impact of this Statement of Commitment on Aboriginal peoples, Country, cultures and spirit.





Message from the Chair

I am pleased to provide the EPA Board's 2022–23 annual regulatory assurance statement to the Minister for Climate Change, Minister for Energy, Minister for the Environment, Minister for Heritage.

Each year, the Board reviews the performance of the NSW Environment Protection Authority (EPA) in protecting the environment and reducing risks to human health, as well as assessing the performance of industries regulated by the EPA. This year we have considered the progress of strategic programs by the EPA, responses to regulatory priorities, and performance results presented to the Board throughout the year.

The EPA has a critical role in protecting the environment from the threat of climate change and supporting NSW to achieve net zero emissions by 2050. The Board commends the EPA's release and implementation of its climate change policy and climate change action plan this year. We recognise the urgency of enabling and driving government and industry-level reduction of carbon emissions and adaptation to the challenges of climate change. We also recognise the plan's staged approach to complement other government and industry actions.

In 2022–23, the EPA responded to three devastating floods in little over one month, where more than 2,600 homes were destroyed or severely damaged, and 200,000 tonnes of debris and waste were cleared. The EPA worked alongside emergency services to identify and manage environmental risks, coordinate clean-up activities, attend emergency centres to provide advice to residents, and support riverbank erosion and water quality task forces. Through its leadership in disaster management the EPA prevented considerable harm to human and environmental health.

The EPA Board also acknowledges the extensive collaborative work carried out to identify regulatory priorities, and to design and implement effective solutions through appropriate regulatory tools. An example of this was a focus on reducing broadacre pesticide spray drift incidents via extensive community and business outreach programs, training and monitoring activities.

We are pleased to see that the EPA's Statement of Commitment to Aboriginal Peoples is already bringing greater awareness of the rights and interests of Aboriginal Peoples in environmental protection. We continue to support the establishment of an ongoing Aboriginal Peoples

Knowledge Group to advise, nurture and challenge the EPA.

We were delighted to welcome two scientists to the Board, Professor Christian Turney and Associate Professor Bradley Moggridge, whose profiles are contained in this report. This gives us skill sets in climate change, water management and, in the case of Brad, Indigenous culture and knowledge.

Since being at the helm as CEO, Tony Chappel has been leading a renewal of the EPA to create an even more collaborative, effective and purposeful organisation. The Board is working with Tony and the Executive through this reorganising phase.

Looking ahead, we recognise the opportunity for the NSW Government to lead community, business and industry in the move to a circular economy and other significant environmental initiatives. While we are beginning to see community momentum, government-led initiatives and regulatory reform are also supporting a safe and fair transition.

A handwritten signature in black ink, appearing to read 'Rayne de Gruchy'.

Rayne de Gruchy AM PSM
Chair of the Board

Part 1: Introduction

About this report

Each year the Board reflects on how the EPA has reduced risks to human health, prevented environmental degradation and enabled innovation to improve our future environmental resilience.

In doing so, the Board is conscious that the EPA is operating in a context of significant global, national and regional pressures on the environment and its sustainability. These pressures include the increasing threat of climate change and the impact it is already having on climatic conditions and extreme weather events. The devastating consequences of the 2019–20 bushfires and 2022 floods bring into stark relief the impact of our changing climate due to global warming.

There are also significant challenges in relation to native vegetation land clearing, river health and impacts on fish and animal populations. And the challenges for the environment will continue with a growing population, pressure on transport, competing demands for water, and impacts on household budgets with energy affordability.

The issues facing the environment in NSW are captured in detail in the *NSW State of the Environment Report* which is published every three years. The latest report, *State of the Environment 2021*, covered 22 areas of the environment in NSW, including assessments on climate change, air quality, water quality and energy use.

On a positive note, the report found we are using more renewable energy in NSW, our energy consumption is dropping, we are better at tackling litter and waste, and our beaches have good water quality. We are also working to reduce greenhouse gas emissions.

But not everything is tracking well. As the report notes, we cannot gloss over the fact that some areas of the environment need extra help now and in the future.

To this end, the Board is working closely with the EPA executive leadership team to put in place the organisational structures, culture, systems and processes to ensure that the EPA is a proactive steward of the environment, working in partnership with industry, community and government.

Components of this report include:

- Part 2A focuses on the EPA's performance in delivering its strategic plan and specific regulatory priorities.
- Part 2B focuses on the EPA's performance in working across Australian jurisdictions, with a focus on achieving high-quality regulatory consistency across jurisdictions.
- Part 3 presents the EPA's regulatory performance scorecard with respect to industry licensees, and notes the intention to broaden these indicators to include industry's transition to net zero.
- Part 4A sets out the progress made by the EPA in addressing recommendations from the Board's 2021–22 regulatory assurance report.
- Part 4B proposes a new set of recommendations which aim to build on the work to date in transforming the EPA into a modern and effective regulator.

About the Board

The EPA Board is established under section 15 of the *Protection of the Environment Administration Act 1991* (POEA Act). The Chair and part-time members are appointed by the NSW Governor on the recommendation of the NSW Minister for Climate Change and Minister for the Environment.

Rayne de Gruchy AM PSM chairs the Board and was appointed 28 September 2020. Biographies of Board members and summaries of meetings and key activities are presented in the EPA annual report.

The current Board members have expertise in environmental law and science, corporate, financial and risk planning and management, and Aboriginal cultural knowledge, as well as established ties to business and community groups.

The functions of the EPA Board are:

- a. to determine the policies and long-term strategic plans of the EPA, including policies and plans relating to organisational governance and risk management
- b. to oversee the effective, efficient and economical management of the Authority
- c. to develop, and make available for public information, guidelines relating to the institution of criminal and related proceedings
- d. to determine whether the Authority should institute proceedings for serious environment protection offences referred to in section 17 of the POEA Act
- e. to advise the Minister on any matter relating to the protection of the environment (at the request of the Minister or on its own initiative).

This year, the Board welcomed two new members:

- **Associate Professor Bradley Moggridge**, a Murri man of the Kamilaroi Nation in northern NSW, who brings extensive experience in Indigenous and water research roles through his work with the CSIRO, NSW Department of Primary Industries, the National Environmental Science Program Threatened Species Recovery Hub and his current work at the University of Canberra Centre for Applied Science.
- **Professor Chris Turney**, Pro Vice-Chancellor of Research at the University of Technology, Sydney, an internationally recognised climate and environmental scientist with a focus on mitigating the impacts of environmental change in Australia and the world.

About the EPA

The EPA is an independent statutory authority established under the POEA Act. As the State's primary environmental regulator, the EPA has responsibilities and functions under several pieces of NSW environmental legislation, including *Protection of the Environment Operations Act 1997* (POEO Act), *Plastics Reduction and Circular Economy Act 2021*, and *Forestry Act 2012*.

As a steward for the environment, the EPA plays a lead role in protecting the natural environment of NSW, and is committed to a sustainable future that is responsive and resilient to climate change. The EPA partners

with Aboriginal people, industry, the wider community, and local, state and federal governments to protect, restore and enhance our diverse ecosystems, and educates and supports stakeholders and communities in creating an environmentally healthy future. This includes the transition to a circular economy.

The *Strategic Plan 2021–24*, together with the *Regulatory Policy*, prioritises and structures how the EPA will protect and enhance the environment now and into the future.

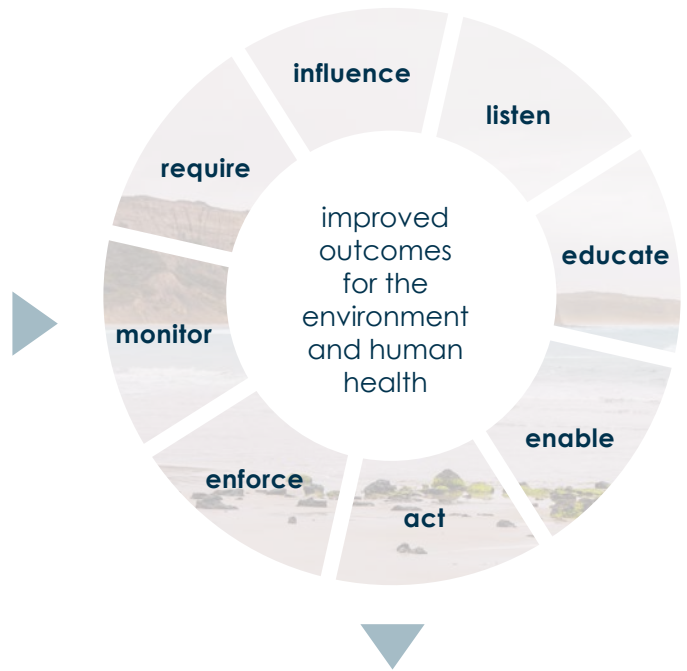
The Strategic Plan identifies five key focus areas over three years:

- ecologically sustainable development
- waste
- water quality
- legacy and emerging contaminants
- climate change.

The diagram on page 9 illustrates how the EPA's core work, regulatory priorities and strategic focus areas align to achieve our strategic ambitions.

Our goal is to protect tomorrow together.

We apply these regulatory tools to our strategic plan focus areas and the more urgent regulatory priorities to achieve our strategic goals.



	<u>Our vision</u>	<u>Our purpose</u>			
Ambitions	A healthy and thriving environment for the future	Healthy environments, economies and communities			
Strategic focus areas	 Ecologically sustainable development	 Waste	 Water quality	 Legacy and emerging contaminants	 Climate change
Regulatory priorities	End-of-life plastics End-of-life tyres	Forestry Hazardous and liquid waste	Pesticides and chemicals Radioactive sources		
The core areas we regulate every day	<ul style="list-style-type: none"> • Air • Chemicals • Climate change • Coal seam gas • Contaminated land • Dangerous goods 	<ul style="list-style-type: none"> • Litter and illegal dumping • Native forestry • Noise • Odour • Pesticides • Plastics 	<ul style="list-style-type: none"> • Recycling and re-use • Radiation • Waste • Water 		

Part 2A:

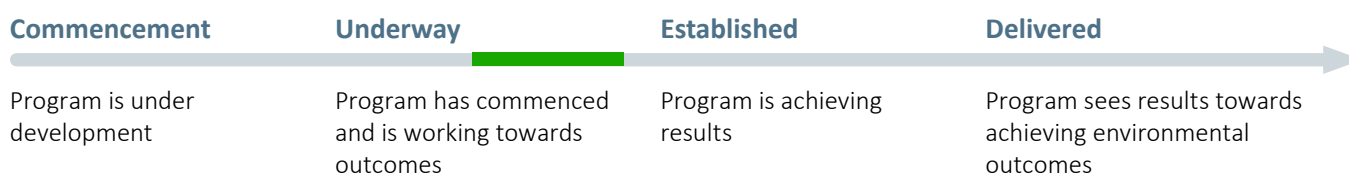
The EPA's regulatory performance

Each year the Board reflects on how the EPA has reduced risks to human health, prevented environmental degradation and enabled innovation to improve future environmental resilience.

For its assessment of the EPA's regulatory performance, the Board has focused on:

- the EPA Statement of Commitment to Aboriginal Peoples and how this is being embedded to inform regulatory practices
- progress in addressing the strategic focus areas in the EPA *Strategic Plan 2021–24*: water quality, ecologically sustainable development, climate change, legacy and emerging contaminants, and waste
- initiatives to combat six foreseeable and specific risks to the environment that formed the EPA's regulatory priorities for 2022–23
- efforts to support the NSW Government state emergency management arrangements in light of the fires and floods experienced over recent years.

Embedding the EPA Statement of Commitment to Aboriginal Peoples



The Board applauds initial progress to embed the EPA Statement of Commitment to Aboriginal Peoples into the strategic and day-to-day work of the EPA. The Statement of Commitment outlines 12 public-facing commitments to work with, learn from, listen to and respect Aboriginal peoples, knowledges and Country.

Highlights in 2022–23 included:

- approval for the establishment of an ongoing Aboriginal Peoples Knowledge Group that will guide, advise, nurture, and challenge the Executive on inclusion of Aboriginal peoples' connection to Country, cultural values and knowledge
- completion and rollout of an Aboriginal Cultural Training and Capability package. This incorporates the Winanga-li, *Walk with Us* eLearning modules, which are available on the EPA Learning Portal and part of the EPA induction package for all new staff
- development of a proposal to incorporate the value of Aboriginal cultures and knowledges into EPA legislation
- appointment of Associate Professor Bradley Moggridge, a Murri man of the Kamilaroi Nation in northern NSW, to the EPA Board.

Strategic Plan 2021–24: progress since 2021–22

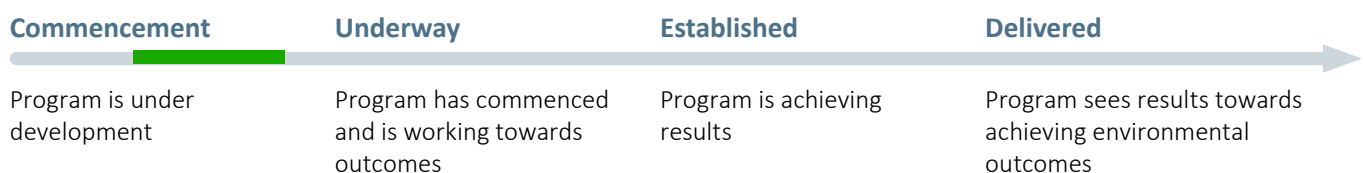
In 2022–23, the EPA continued to progress the five medium-term focus areas that are at the heart of the *EPA Strategic Plan 2021–24*.

During its assessment the Board noted that, while there has been progress in all five focus areas, it is too early to monitor the success of every program because some initiatives are in early phases with more planning to do.

The Board also notes that the Strategic Plan was refreshed in 2023 and now includes 16 additional core operations (see diagram on page 29).

These core operations represent the diverse nature of the EPA’s work under the POEA Act. Highlights of each strategic plan focus area are given below. The EPA annual report provides more in-depth updates.

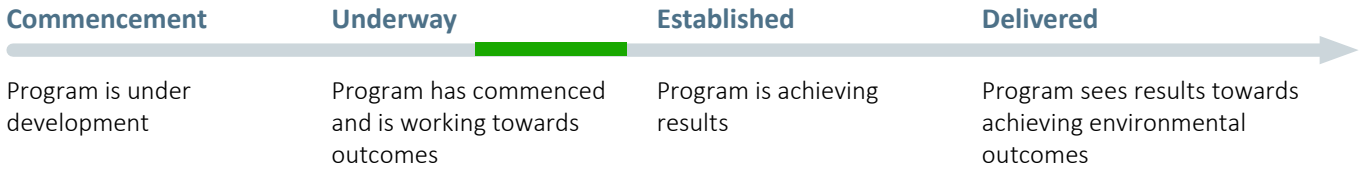
Water quality – Action to ensure sustainable and safe water for the community, ecosystems and for economic prosperity, and to support cleaner waterways.



The Board observes the complex operating environment around water quality, with responsibilities spanning multiple government agencies and jurisdictions. The Board commends the EPA for its extensive planning and collaboration to strengthen multi-agency efforts, including:

- working with other government agencies to improve water quality in groundwater, at beaches, in the ocean, rivers, creeks and community water supply dams
- working with multiple councils and NSW Government agencies to realise the aspiration of making Parramatta River swimmable again by 2025
- monitoring sewage overflows and taking regulatory action when non-compliances are observed
- drafting proposals for the recognition and protection of Aboriginal cultural values of waterways by 2030 and limiting artificial polluted discharges to natural water courses by 2050
- developing a revised hierarchy of water quality outcomes to guide future work.

Climate change – Action to reduce emissions, mitigate climate change impacts and build greater environmental and community resilience, aligned with the principles in the NSW Net Zero Plan and the NSW Climate Change Adaptation Strategy.



The Board regards climate change as the EPA’s single most critical challenge and priority.

Climate change and biodiversity loss is recognised as humanity’s greatest and most formidable, yet foreseeable threat. Together with biodiversity loss – which is both a cause and consequence of climate change – it is a global existential crisis that demands a united whole-of-government response to drive essential shifts to reach net zero via economic strategies, industry reform, compelling leadership and collective determination.

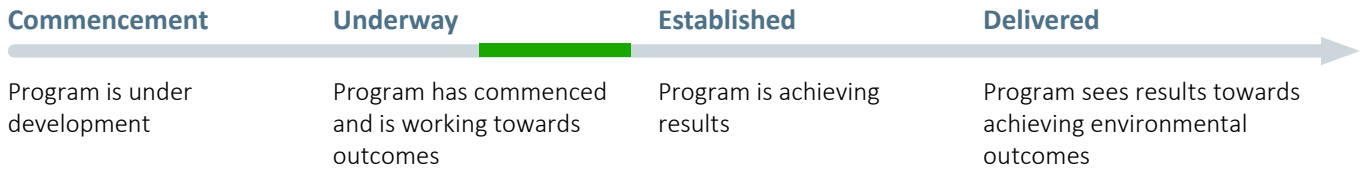
The Board anticipates and supports strong actions from the EPA, implementing every available regulatory tool to drive decarbonisation, a circular economy and climate change adaptation. The Board will continue to oversee the EPA’s progression of this focus area while offering guidance and advocacy.

The Board acknowledges the 2021 Land and Environment Court ruling that the EPA must do more to mitigate the effects of climate change, and strongly endorses the release of the *Climate Change Policy* and *Climate Change Action Plan 2023–26*. The Board is pleased to see community and industry support for the climate change policy and action plan, with 98% of all submissions to the consultation drafts being supportive or neutral.

In 2022–23, the EPA:

- released the EPA *Climate Change Policy* and *Climate Change Action Plan 2023–26*, and finalised an implementation plan with dedicated project teams and overarching governance arrangements
- established sector advisory groups for the agriculture and mining sectors to guide priority actions
- signed a memorandum of understanding with the Office of Energy and Climate Change (OECC) to assist coordination and resourcing for the EPA’s action plan, collaboration with key climate change agencies and the independent Net Zero Commission, and alignment with NSW Government’s net zero emissions commitments
- partnered with the Department of Planning and Environment and OECC to prepare climate change assessment requirements and supporting guidance for regulated activities
- surveyed 2,100 environment protection licence holders to understand how to support industry to reduce greenhouse gas emissions and the impacts of climate change on industry operations.

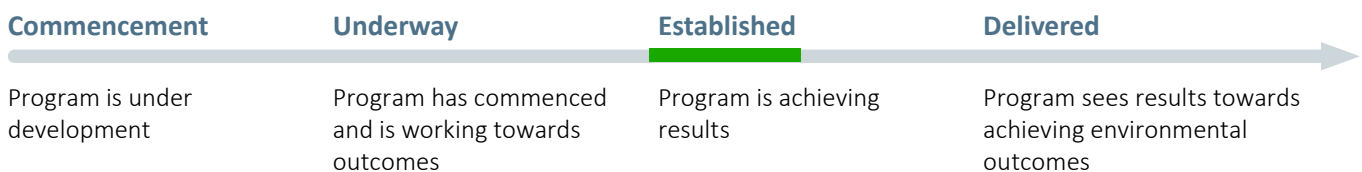
Ecologically sustainable development – Championing sustainable approaches to mitigate the cumulative impacts of industry on local communities and environments.



The Board acknowledges that most programs to champion ecologically sustainable development are now establishing and, while too early to measure impacts, we are seeing positive initiatives. The Board notes that the EPA has:

- designed and implemented a framework for assigning a risk level to planning matters based on the EPA’s policies and guidelines for prioritising statutory planning referrals
- improved data, intelligence and insights to enable and support timely and accurate ecologically sustainable development decisions by planning authorities
- reduced land-use conflicts within special activation precincts, regional jobs precincts and major rezonings by strengthening partnerships with planning authorities and promoting intergenerational equity through evidence-based environmental advice
- developed a capacity-building program for local government to support ecologically sustainable development in decision-making
- championed sustainable approaches to mitigate the cumulative impacts of industry on Aboriginal communities, local communities and environments
- established an ongoing Aboriginal Peoples Knowledge Group to provide input and guidance on embedding Aboriginal perspectives and cultural obligations to better support environmental and human health outcomes.

Legacy and emerging contaminants – Action to prevent harm by targeting our efforts on high-risk legacy, current and emerging contaminants.

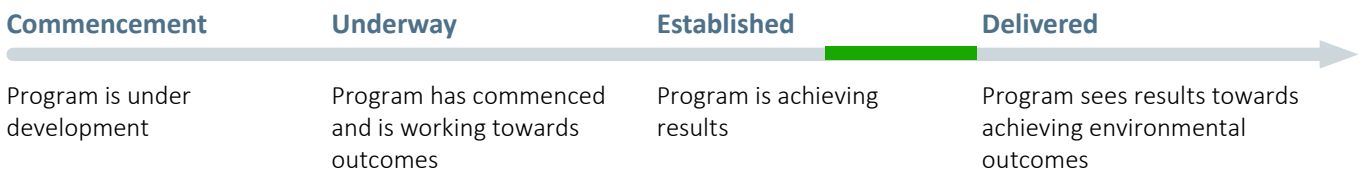


The Board considers that the EPA is achieving results in this area, including:

- working with the Australian Government and other states and territories to develop a nationally consistent environmental standard for managing industrial chemicals, making it easier for industry to choose less-harmful chemicals
- developing a mapping system to identify underground petroleum storage systems to prioritise checks for potential risks to human health, especially near groundwater-dependent communities
- continuing the management, monitoring and response to asbestos in NSW through a wide range of initiatives, including coordination of the whole-of-government NSW Asbestos Coordination Committee, remediation works in a number of discrete Aboriginal communities, and the EPA’s make-safe program for legacy asbestos fill sites in western Sydney

- assessing former landfill sites in greater Sydney to identify legacy landfills with the highest potential for hazardous gases to cause harm and, where necessary, requiring gas monitoring or mitigation to ensure public safety
- starting compliance campaigns to assess the implementation of national codes for radiation protection in high-risk sectors
- improving compliance and environmental outcomes from broadacre pesticide spraying, using a regulatory framework to target a range of interventions
- delivered flood debris and contaminants clean-up programs in disaster-declared areas.

Waste – Action to reduce the harmful impact of waste and drive behaviours that create a circular economy.



The Board notes the significant progress underway to enable and drive the State’s circular economy. In the reporting period, the EPA:

- further tackled problematic and unnecessary plastics through the NSW Plastics Action Plan. The first phase has seen a ban on specific types of single-use plastic items to reduce the impact of plastics on the environment
- awarded 10 grants valued at \$6.2 million to 289,644 households to deliver new Food Organics, Garden Organics (FOGO) council recycling services
- improved efficiency and effectiveness of Return and Earn beverage container recycling services. More than 923,000 tonnes of materials have been recycled through the scheme
- commenced a review of the NSW Waste Levy to encourage recycling and resource recovery, and diversion of waste from landfill
- introduced carbon abatement opportunities for a more circular economy
- partnered with local councils on Household Chemical CleanOut events and community recycling centres for the safe disposal of household problem waste
- worked with Aboriginal communities to clean up waste from flooding and illegal dumping.

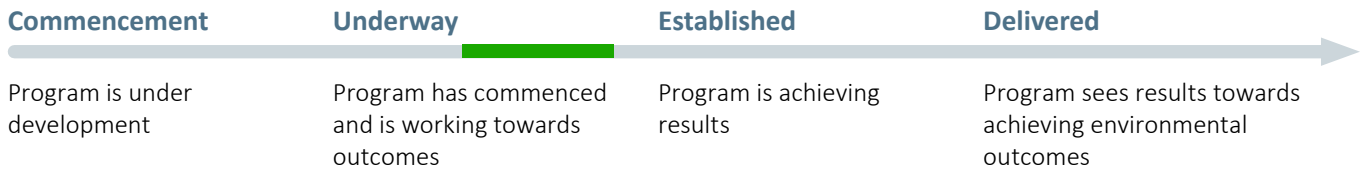
2022–23 regulatory priorities

EPA regulatory priorities are drawn from significant or emerging threats or opportunities which require near-term action. Although the EPA never loses sight of the importance of its core work to protect land, air and waterways, in 2022–23 it also focused regulatory work on six priorities where there was a foreseeable risk of environmental harm in the absence of immediate targeted intervention. The six priorities were:

- Improving the regulation of hazardous and liquid waste
- Managing risks of end-of-life tyres alongside product stewardship
- Strengthening the EPA’s capacity to monitor and regulate radioactive sources
- Better regulation of pesticides and chemicals
- Assuring compliance across Crown and private native forestry
- Managing risks from stockpiling of end-of-life plastics.

Some key highlights are given below. The EPA annual report provides more in-depth updates.

Improving the regulation of hazardous and liquid waste



Prolonged wet weather has exacerbated infrastructure and processing challenges for the hazardous and liquid waste industry. With continued weather extremes expected, the waste industry needs to work differently to manage risks and meet the needs of the NSW community.

Areas of concern and focus for the EPA are improper waste disposal, the impending closure of the main liquid waste treatment facility in NSW, and waste operators illegally stockpiling liquid and hazardous wastes.

Flammable solvents are a key risk as they produce contamination and fire risks during use and at end-of-life storage and disposal. In response, the EPA is prioritising extra regulations for generating, storing, transporting, treating and disposing of hazardous and liquid wastes, and is establishing a new nationally consistent waste tracking solution to improve oversight of the movement of hazardous and liquid waste.

Managing risks of end-of-life tyres alongside product stewardship



In 2022–23, the EPA identified that the fire risks associated with end-of-life tyres had increased significantly with the ban imposed by the Commonwealth Government on certain waste materials. These risks included unlawful storage and disposal of tyres (including illegal dumping), insufficient tracking of waste tyres, and resource recovery challenges.

The Board notes that stockpiling of waste tyres is more likely since the export restrictions were imposed. Waste tyres must be managed responsibly to mitigate fire and pollution risk.

The root cause is linked to limited end-of-life market opportunities, made worse by limitations imposed by the export restrictions. The Commonwealth has now established a system for exempting certain exporters from the ban.

The EPA will continue to monitor tyre stockpiling to make sure tyres are being managed in an environmentally appropriate manner. Meanwhile, efforts are underway to identify beneficial re-uses for waste tyres.

The EPA is working collaboratively with key industry associations, NSW Treasury and the Commonwealth Department of Climate Change, Energy, the Environment and Water (DCCEE) to address risks and prioritise consistency in regulatory approaches.

Strengthening the EPA's capacity to monitor and regulate radioactive sources

Commencement	Underway	Established	Delivered
Program is under development	Program has commenced and is working towards outcomes	Program is achieving results	Program sees results towards achieving environmental outcomes

The EPA leads the regulation of radiation sources in NSW and plays an important role in responding to radiological incidents under the State's emergency management arrangements. The EPA regulates more than 20,000 licensees across a wide range of medical and industrial uses as well as in research, agriculture and mining. While radiation incidents are rare, their impacts are potentially very serious. The EPA works not only to reduce the likelihood of any incident, but also to be ready to respond in a timely way to minimise any impacts if an incident occurs. The Board is working with EPA management to build and maintain capability and modernise its approach to remain effective as a risk-based regulator.

In 2022–23, the EPA partnered with the Australian Nuclear Science and Technology Organisation, Fire and Rescue NSW and the Department of Defence to share information, technical support and develop a shared work program to improve its capability and response capacity. More than 100 EPA operations officers are participating in radiation safety and incident management training. The EPA has also secured extra radiation sampling and monitoring equipment and revised its response procedures.

The EPA will continue to develop and maintain its capability alongside targeted compliance programs including for solaria and public/private hospital equipment. This will make sure communities and the environment continue to be protected from radioactive sources.

On 14 March 2023, the Australian Government announced the acquisition of nuclear-powered submarines from the United Kingdom and United States under the AUKUS Agreement, which will increase visits from US and UK submarines. As preparation, the EPA has undertaken extra planning and training with the Queensland Government's Department of Environment and Science, including the development of new environmental (air and water) monitoring procedures for nuclear-powered warships. As part of the wider engagement with AUKUS, the EPA is aware other stakeholders may increase their use of radioactive materials, notably universities and other research facilities.

Noting the significant progress outlined above, the Board considers that this regulatory priority has now concluded, with the EPA having sufficient capacity to monitor and regulate radioactive sources as part of its normal operations.

Improving regulation of pesticides and chemicals

Commencement	Underway	Established	Delivered
Program is under development	Program has commenced and is working towards outcomes	Program is achieving results	Program sees results towards achieving environmental outcomes

Pesticides and chemicals, when used incorrectly or unsafely, can impact our health, economy and the environment. The EPA regulates the use of pesticides in NSW, including those used in agriculture and on public land, by administering regulations, and conducting investigations and campaigns.

In 2022–23, pesticides were assessed as a regulatory priority due to a noticeable increase in alleged offences and growing community concerns around broadacre spray drift (the movement of pesticide spray droplets beyond the immediate use area).

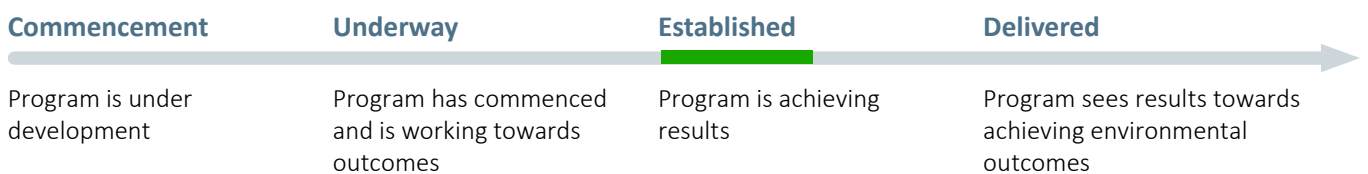
In response, the EPA launched a high-visibility compliance and education campaign to investigate overspray and the management of broadacre and intensive horticulture pesticides, conducting around 130 site inspections across the state.

Overspray and run-off on the North Coast, Central and Northwest regions of NSW were targeted and EPA officers identified compliance issues including poor storage practices and spraying techniques, a lack of knowledge on legislative requirements for pesticide applicators, and poor record keeping. The EPA began engaging closely with NSW Farmers and the Stop Off-target Spraying group on the issues and launched extensive community engagement activities in partnership with NSW Local Land Services.

Due to the risk of adverse weather causing spray drift incidents, the EPA is focusing its efforts on helping farmers plan their spray operations to avoid unsuitable conditions. To plan, farmers can use both information from weather stations and forecasts provided by an industry-led weather and networked data system (WAND).

Based on intelligence from the 2022–23 inspections, the EPA will continue to prioritise the regulation of high-risk broadacre and intensive horticulture pesticide activities through regular monitoring and appropriate regulatory action where required.

Assuring compliance across Crown and private native forestry



The EPA regulates NSW forestry operations by actively monitoring and enforcing compliance of the State’s forestry laws. It makes regular inspections and takes regulatory action where non-compliance is identified.

The bushfires of summer 2019–20 led to increased environmental risk and sensitivity in NSW Crown and private native forests. This warranted the EPA to do additional, targeted and proactive compliance inspections, to make sure lawful protections were adequate and in place.

In 2022–23, the EPA conducted 107 inspections of forestry operations focusing on exclusion zone protection, threatened species protection and retained tree protection. Regulatory follow-up action was required in some areas, ranging in scope and severity from advisory notices to prosecutions.

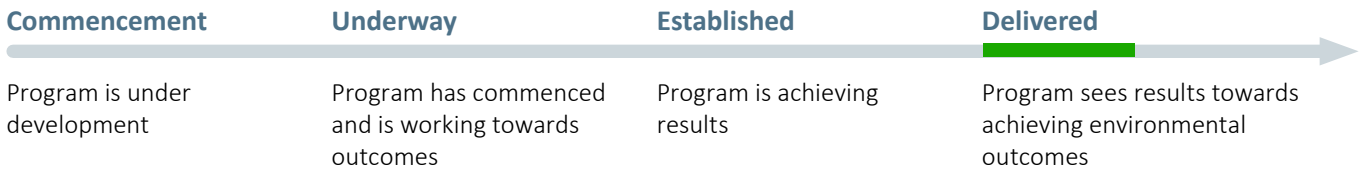
In 2023–24, the EPA will continue to focus on protecting the habitat of koalas and other threatened species by monitoring how well industry complies with the identification, design and protection of environmentally significant areas and retained trees. Other areas of immediate focus are improved data accessibility, spatial mapping and ongoing staff capability training.

In June 2023, the Audit Office of NSW released its performance audit report, *Regulation of public native forestry*. The Board welcomes the audit findings which reinforce that the EPA is effectively regulating Crown forestry and accepted the three EPA-specific recommendations and one joint recommendation for continual improvement.

In response to the audit the EPA has:

- committed to the ongoing training of regulatory officers to conduct forestry inspections through a forestry skills development program
- fully implemented the Memorandum of Understanding with Forestry Corporation of NSW, signed during the 2019 Black Summer bushfires, that sets out the approach agencies will take to developing a cooperative relationship.

Managing risks from stockpiling of end-of-life plastics



With changes in the global recycling market, the potential for plastic stockpiling has increased.

In 2022, the EPA identified an estimated 5,200 tonnes of soft plastics, collected from Coles and Woolworths supermarkets through the REDcycle program (REDcycle), that had been stockpiled at 15 premises across NSW. The quantity and manner in which these plastics were being stored presented risks demanding urgent mitigation.

The EPA served notices on Woolworths and Coles requiring the removal of stockpiles of soft plastics from seven high-risk sites by 12 May 2023, and the removal of low-medium risk stockpiles at eight sites by 30 June 2023. Waste has since been removed from the sites. Supermarkets have until May 2024 to find a long-term solution for end-of-life plastic materials. Options include reprocessing, exporting for reprocessing offshore or, as a last resort, sending it to landfill.

The Board notes that, while much of the plastic waste will go to landfill, a significant amount will be redirected to alternative uses and, through the urgent action of the EPA and the responsible entities, safety was restored and other risks addressed.

The EPA’s approach to this issue involved an innovative use of new powers under the POEO Act which allow for persons to be required to take clean-up action if they have contributed to a pollution incident. There is an ongoing investigation into the circumstances that led to the stockpiling.

Supporting the NSW Government's state emergency management arrangements

Under the NSW emergency management arrangements, the EPA has an important role in planning and preparing for, responding to, and recovering from incidents, emergencies, and disasters that have potential to impact the land, air, and inland waterways of New South Wales, including cultural and natural heritage assets and wildlife.

The EPA also has incident response functions under the POEO Act. As a regulator, the EPA advises licensed facilities on preparedness for, and responding to pollution incidents, and investigates and acts on suspected breaches of environmental legislation that caused or contributed to an incident.

In 2022–23, the EPA was involved in a wide range of incidents and emergencies across NSW spanning fires, floods, explosions, chemical releases (including oil spills), dangerous goods, illegal dumping of waste and radiation incidents.

The most frequent and severe incidents included:

- more than 140 transport incidents (including road, aviation, rail and marine)
- 14 air pollution incidents, three of which required a multi-agency response due to the risks they presented to human health
- nearly 200 technical/industrial incidents, including fires, hazardous materials and radiation.

The EPA's broader emergency management role involves planning and preparation to reduce the impacts of future events and building environmental resilience. The EPA holds a unique role in bringing together waste management, climate change mitigation and adaptation, and emergency management frameworks to support important policy initiatives such as strategic waste infrastructure planning.

NSW flood recovery 2022–23



The Board commends the significant prevention of human and environmental harm resulting from the EPA's leadership in disaster management.

NSW experienced severe storms and flooding in March 2021 and again in February–March 2022 from the Hawkesbury River to the Queensland border. In June–July 2022, storms and flooding again affected much of the NSW coast. This led to significant amounts of built and natural flood debris in rivers, estuaries, and adjacent coastlines in NSW. The Australian Government declared many parts of the east coast a natural disaster. During this period:

- more than 2,600 homes were severely damaged, including 2,000 deemed uninhabitable
- 200,000 tonnes of debris and waste were cleared.

The EPA is continuing to lead several clean-up programs to ensure that flood-generated debris on shorelines and in waterways is removed in a safe and effective manner. The clean-up activities are being undertaken by specialist contractors.

The EPA flood recovery programs are funded through the joint Commonwealth and NSW Disaster Recovery Funding Arrangements (DRFA), coordinated by NSW Reconstruction Authority.

Spotlight: Responding to contaminated flood debris – Gunning Gap



A small sample of more than a thousand oil drums and chemical containers recovered from Lachlan Valley National Park. Photo: AVCON

The EPA is leading the Flood Debris Maintenance Program to help communities, councils and the environment continue to recover from the multiple flood disasters of 2022. The program is focusing on the removal of flood debris from land, waterways, shorelines and cane farms covered by natural disaster declarations.

During recovery activities following the November 2022 Eugowra flood, EPA contractors discovered numerous oil drums and chemical containers deposited in the Lachlan Valley National Park, near Gunning Gap. The EPA coordinated immediate work to clear the debris due to the pollution potential to nearby wetlands.

Many items were removed from the site, including 1,058 x 20 litre cooking oil drums, 53 x 205 litre drums, five fridges, four gas bottles and three fuel tanks (400–5000 litre). This made it the largest concentration of hazardous items identified and cleaned up by the flood recovery project team since the program started in April 2021.

Conclusion

The Board is pleased by the varied yet significant progress of all five strategic plan focus areas, noting complexities and delays inevitably present when working towards long-term joint-agency outcomes. The Board notes that the progress of the strategic focus areas took place alongside a faster, tactical-style response to regulatory priorities where the EPA identified that immediate, targeted intervention was necessary to mitigate foreseeable risks.

The Board supports the EPA's planned approach to closing out regulatory priorities on an annual basis and, where practical, returning to business as usual. In 2022–23, the response and interventions for end-of-life plastic stockpiling and radiation were considered sufficient to return to business as usual, whereas other regulatory priorities will continue in 2023–24 with additional outcomes. Two new regulatory priorities were also added.

For 2023–24 the EPA's regulatory priorities are:

- Broadacre and intensive horticulture pesticide management
- End-of-life tyres
- Forestry
- Contaminated sites
- Flammable solvents
- Air pollution from dust
- End-of-life batteries.

The Board will continue to monitor the progress of regulatory priorities and strategic focus areas with regular updates from the EPA's executive leadership team and will report on the outcomes in next year's Board Statement. The Board looks forward to working with the EPA to develop a new Strategic Plan, following the close-out of the *EPA Strategic Plan 2021–24*.

Part 2B: Jurisdictional comparisons

Working towards regulatory consistency across jurisdictions

The EPA regularly engages with other jurisdictions on a range of issues, both formally and informally. Engagement across all three levels of government is critical for efficient and effective protection of human health and the environment. Inter-government relations strengthen knowledge sharing, actively foster continuous improvement and promote regulatory consistency.

The Board encourages and supports the steps the EPA is taking to collaborate and learn from interstate and international counterparts, industry and academia to ensure its regulatory policies and practices remain up to date and can adapt to industry trends and innovation.

The Board also encourages greater support and uptake of citizen science, noting the benefits of widespread engagement, monitoring and reporting of environmental insights.

The Board notes that the EPA regularly meets with other jurisdictions through forums such as the Heads of EPA and the Environment Ministers meetings, and that jurisdictions are working together to align approaches to topics such as:

- Resource recovery
- Climate change
- Hazardous gas and liquid waste
- Tyre stewardship
- Biosolids regulatory review
- Harmonisation of single use plastics regulations.

Spotlight: The national Climate Change Community of Practice

NSW EPA is an active member of the Heads of EPA Australia and New Zealand (HEPA). Under HEPA, NSW EPA chairs the Climate Change Community of Practice, which brings together officers working on climate change from all jurisdictions.

The Community of Practice provides an informal forum for HEPA member agencies to share information and collaborate on climate change regulatory matters of common interest. This includes climate change adaptation and mitigation actions in each jurisdiction and approaches to assessing development proposals for potentially high-emitting facilities. The work also supports the implementation of the EPA's climate change action plan.

Spotlight: Knowledge sharing to improve NSW resource recovery framework

As part of its focus on waste reduction, the EPA commissioned Dr Cathy Wilkinson, former head of EPA Victoria, to conduct an independent review of the state's resource recovery framework with the review released in September 2022. It was informed by consultation with government and community stakeholders. The objective of the document was to provide recommendations to strengthen the existing resource recovery framework. It included 22 recommendations grouped under four thematic outcome areas:

- Improved administration and decision making
- The definition of waste and enhancing the regulatory framework
- Enabling products and materials (at their highest value) to facilitate circularity
- Improving approaches to known and emerging contaminants.

The Board welcomes the recommendations.

In December 2022, the EPA published a response to the independent review in support of all 22 recommendations with a delivery plan to be published in 2023–24.

State of the Environment reporting

The EPA's *NSW State of the Environment* report, published every three years, provides an important mechanism for monitoring trends in environmental outcomes and is a snapshot in time of the main environmental issues facing NSW. The NSW EPA is a member of the state of the environment report interjurisdictional forum. This group is represented by equivalent environment agencies in Australian states and territories and New Zealand. The group meets one to two times per year with a rotating chair. NSW EPA chaired the early 2023 meeting with a focus on international reporting frameworks, for example the United Nations sustainable development goals and Stockholm Resilience Centre's planetary boundaries.

The group shares its experience and expertise to work towards a shared approach to reporting, while noting that often the focus topics and reporting metrics vary between member states, driven by the differences in climate zones, land-use, population and key industries.

Nature Positive Plan: better for the environment, better for business

The Board takes an interest in the Australian Government's independent review of the *Environment Protection and Biodiversity Conservation Act 1999* and the *Nature Positive Plan*. The Board welcomes the commitment to establish a new, independent national environment protection agency to oversee and support states, territories and other Commonwealth decision-makers in applying national environmental standards under accredited arrangements.

UN Special Rapporteur: An international lens on Australia's management and disposal of hazardous substances and waste in Australia

In September 2023, a UN Special Rapporteur reviewed the implications for human rights of the environmentally sound management and disposal of hazardous substances and waste in Australia. The NSW EPA worked with the Australian Government to support the review, which covers interest areas including pesticides, hazardous waste, chemicals, plastics, general air and water pollution, and impacts on human rights, particularly for Aboriginal communities.

The Board notes that initial observations have been published by Dr Marcos A. Orellana, Special Rapporteur on Toxics and Human Rights, ahead of a full report due in September 2024. It encourages the EPA to acknowledge the identified environmental stressors that fall within the EPA's jurisdiction, including:

- toxic releases from coal mines and coal-fired power plants, uranium mines, and the spraying of highly hazardous pesticides, imposing heavy burdens on communities
- proposed petrochemical, offshore oil and gas, hydraulic fracking, and waste incineration projects that present serious health, water, agricultural and climate concerns
- air quality standards that are less protective than in other member countries of the Organization for Economic Cooperation and Development, and certain facilities that have received exemptions from compliance with relevant standards
- an acute distance between the Government and Indigenous peoples.

The Special Rapporteur recognised several good practices across Australian jurisdictions, including:

- Australia's management of hazardous substances and wastes
- the ban on the export of four waste streams: glass, tyres, mixed paper and plastics
- the growing capacity to recycle material streams locally
- product stewardship approaches which complement a circular economy
- Australia's leadership on chemicals and wastes and new legislation on industrial chemicals management
- the prioritisation of asbestos removal from the built environment
- the growing uptake and support of citizen science initiatives.

3

Part 3: Regulatory performance of industry

The Board receives regular updates from the EPA about the regulatory performance of industry via Board meetings and regular check-ins with the EPA's CEO, Tony Chappel.

This year's report highlights:

- results in the regulatory performance scorecard
- incidents and compliance reports
- prosecutions
- trends in risk-based licensing
- industry-led improvements to pesticides use
- marine incidents
- biodiversity incidents – white spot disease
- regulatory compliance of power stations
- sustainability partnership programs
- embedding outcomes-focused measures across regulated activities.

In 2022–23 the EPA focused on aligning its program performance measures to the *Strategic Plan 2021–24*. The Board notes that the EPA is now shifting its focus towards developing indicators to improve tracking of industry's regulatory compliance and transitions to net zero. For example, through adoption of cleaner technologies, energy-efficient processes and adoption of renewable energy.











Regulatory performance scorecard

Looking ahead, the Board notes that there will be a continued focus on clearing inspection and assessment backlogs formed during severe weather events and COVID-19 restrictions through the 2021–22 period.

With a focus on continual improvement, enterprise risk and business continuity planning, the Board is satisfied that the EPA is improving its effectiveness to prioritise resources and balance its regulatory obligations alongside disruptions that will inevitably keep recurring with climate change.

PART 3: REGULATORY PERFORMANCE OF INDUSTRY

Key:  Challenging  Stable











Title	Indicator	2019–20	2020–21	2021–22	2022–23	Status
Licence compliance	Percentage of EPA licensees assessed as environmental management categories A & B (see spotlight. p29)	93.2%	94.3%	94.6%	95.5%	
Pollution incident response management plans	Proportion of environment protection licensees with a pollution incident response management plan	100%	99.5%	99.7%	99.4%	
Licences risk-assessed	Proportion of licences risk-assessed (includes licences with an assessment due by EOFY)	89%	99.6%	100%	98.8%	
High-risk licences inspected	Proportion of high-risk/proactive inspections undertaken for compliance with environmental standards (target 100%)	88.7%	97.5%	86% ¹	93% ¹	
Environmental improvement programs	Number and value of voluntary environmental improvement programs	10 \$16.6M	2 \$30.0M	2 \$1.1M ²	8 \$945,000	
Forestry	Proportion of high-risk Crown forestry operations assessed (target 95%)	100%	90.9%	100%	100% ³	
Environmental liabilities protections	Proportion of licensed premises in priority sectors, such as gas and waste (excluding landfills) that have secure funding for environmental liabilities in place (target 90%)	49%	49%	41%	40% ⁴	
Contaminated sites	Percentage of notified contaminated sites assessed, and a decision made on whether regulation is required, within four months of notification (target 95%)	86%	91%	38% ⁵	35% ⁵	
	Proportion of sites declared to be significantly contaminated land that have regulatory instruments, in place or under preparation, to manage the contamination (target 100%)	95%	87%	81%	89%	
	Proportion of terms and conditions of approved voluntary management proposals complied with (target 95%) ⁶	83%	79%	87%	88%	

1. COVID-19 impacted access to sites, leading to a reduction in inspections and creating a backlog. This backlog is expected to clear in the coming year.
2. Voluntary environmental improvement programs go above and beyond legislative requirements. In 2021–22 and 2022–23 the number and value of the programs were lower than in the previous two years because of the number and nature of applications proposed by licensees. This form of engagement is initiated by licensees, and the EPA assesses each proposal against the published guidelines.
3. Forestry measures may be reviewed in 2023–24 to provide clearer insight of industry performance.
4. The EPA is developing policy frameworks to guide its management of financial risks from environmental liabilities.
5. The impact of COVID-19 restrictions and reduced capacity increased turnaround time, which has led to a backlog of assessments. The EPA expects this measure to improve in future.
6. Voluntary management proposals are proposals for voluntary site management of significantly contaminated land.

Incident and compliance reporting

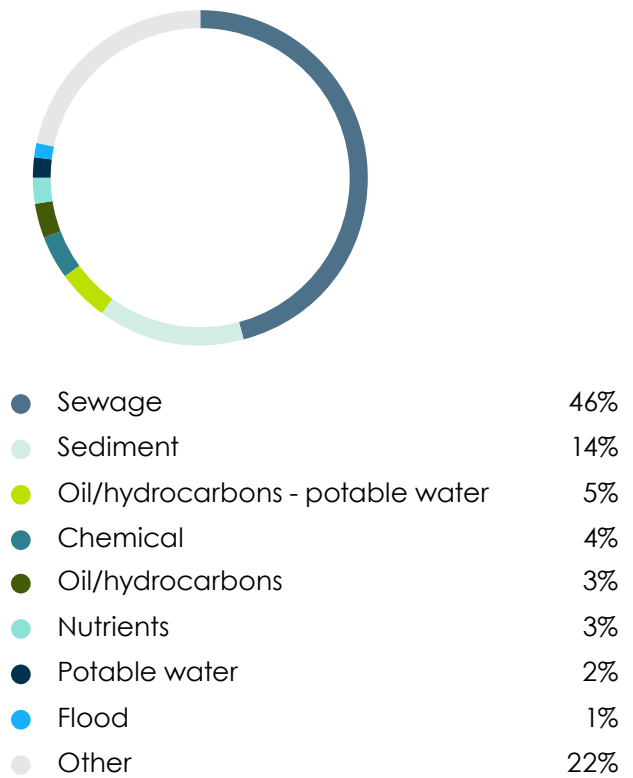
The EPA responds to community and industry reports of environmental issues, incidents and concerns. When a report is received, the EPA investigates and takes appropriate actions to prevent or minimise harm to human health and the environment. Where necessary, the EPA’s regulatory framework is used to determine appropriate regulatory actions.

The following charts explain the types of environmental issues being reported by members of the NSW community, usually via the EPA Environment Line.

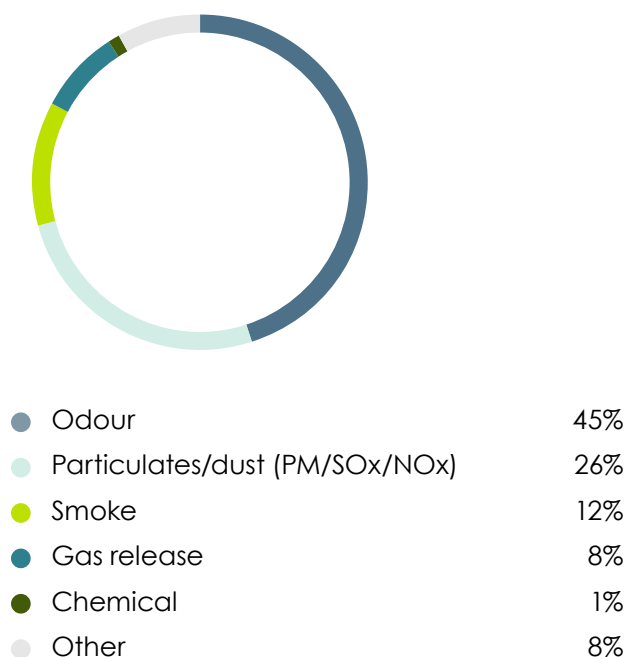
Incident type	No. of cases 2022–23
 Water	2,350
 Air	1,229
 Illegal waste dumping	623
 Noise and vibration	541
 Pesticides	341
 Native forestry operations	161
 Land	153
 Hazardous materials and waste	129
 Radiation	54
 Dangerous goods	25

Breakdown of 2022–23 EPA cases by subtype

Breakdown of water reports



Breakdown of air reports

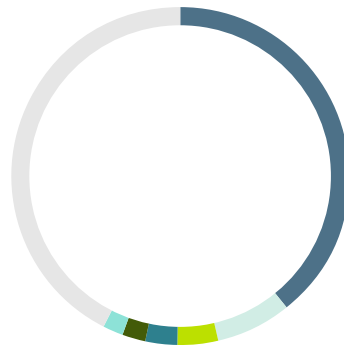


Breakdown of illegal waste dumping



● Asbestos	38%
● Building and demolition waste	16%
● Soil	11%
● Liquid	3%
● Green/garden waste	2%
● Household	2%
● Industrial	2%
● Other	27%

Breakdown of pesticides



● Herbicide	39%
● 1080 pesticide	7%
● Insecticide fumigant	4%
● Odour/vapour/fumes	3%
● Ground - overspray	2%
● Aerial - overspray	2%
● Other	42%

Breakdown of noise and vibration



● Noise	50%
● Construction	13%
● Transport road/rail	12%
● Industrial	6%
● Vibration	5%
● Blasting	4%
● Ports	1%
● Other	8%

Breakdown of native forestry operations



● Operations active – notification	34%
● Operations approved – notification	16%
● Illegal logging	13%
● Biodiversity	6%
● Water	2%
● Spatial - notification	2%
● Other	28%

Breakdown of incidents affecting land



● Chemical/oil spill	50%
● Soil impacts	5%
● Contaminated land management	4%
● Biodiversity	3%
● Other	38%

Breakdown of radiation



● Legislation breach	39%
● Licence condition breach	7%
● Stolen	2%
● Accident report	2%
● Other	50%

Note: The breakdown of EPA cases is based on incident subtypes. Each EPA case has one incident type, yet one incident type can have multiple subtypes. For example, the incident type 'waste dumping' can have 'asbestos' and 'building/demolition waste' as subtypes.



Photo: Anne-Claire Collee/EPA

Spotlight: Positive trends in risk-based licensing

Risk-based licensing results for the past four years show an improving trend in licensed premises reaching category A (best performance).

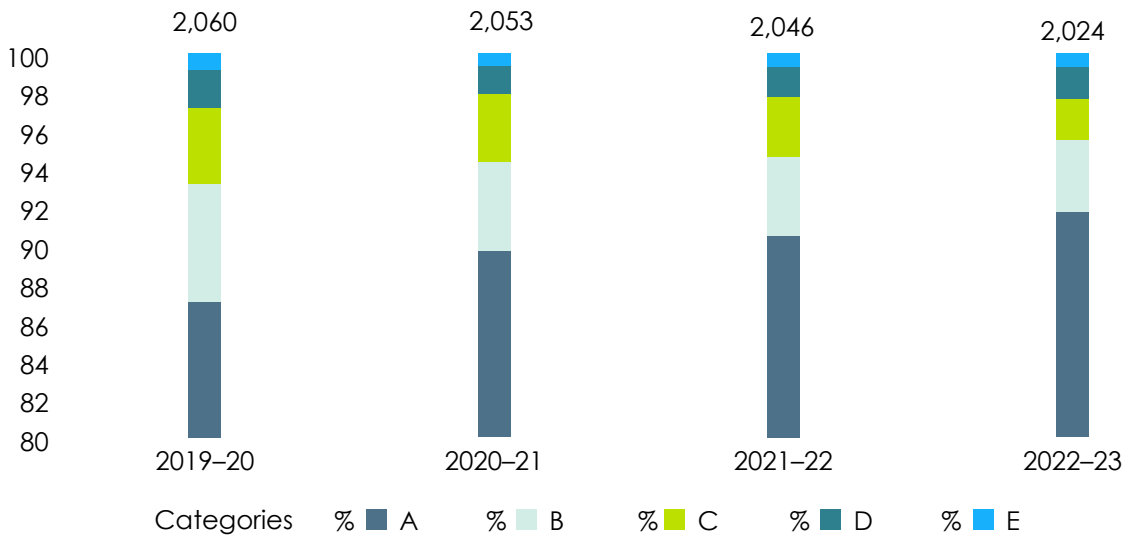
The risk-based licensing system aims to ensure that all licensed activities receive an appropriate level of regulation based on the level of risk they pose to the environment and human health.

Under the EPA’s risk-based licensing scheme, holders of environment protection licences are allocated an environmental management category each year based on their performance.

The environmental management calculation protocol is used to determine a licensee’s environmental management category. This is informed by regulatory actions undertaken by the EPA, and the seriousness of any compliance breaches.

Categories range from the best performers in category A to the poorest performers in category E. Category A and B licensees are rewarded with reduced or neutral administrative fees, while those categorised as C, D and E pay higher fees to encourage improved performance. Licensees can reach higher environment management categories if they improve their regulatory performance and environmental systems and practices.

Percentage of licences by environmental management category and total count per financial year



Prosecutions

This year the EPA had a prosecution success rate of 93% (51 cases out of 57 completed – excluding littering) and the courts imposed \$2,870,650 in fines and financial penalties against defendants. The successful prosecutions were for a range of environmental offences including water pollution, breaches of environment protection licences, illegal waste disposal and storage, providing false and misleading information, failing to comply with clean-up notices and transport of dangerous goods, as well as a false claim under the NSW container deposit scheme. Further detail on prosecutions can be found in the EPA’s annual report.

Spotlight: Industry-led improvements to pesticides use

The spraying of pesticides during hazardous inversion conditions increases the risk of pesticide aerosols drifting offsite and causing harm to people and the environment. Spray drift incidents cost the NSW economy millions of dollars each year. The setting up of the weather and networked data (WAND) system cost industry around \$5.5 million to implement and includes the installation of 100 weather monitoring towers in the grain and cotton growing regions of NSW and Queensland.

The EPA supports the industry-led development and roll out of WAND, which is helping farmers and contractors to make informed decisions about when to spray pesticides to avoid hazardous inversion conditions.

This in turn helps to reduce spray drift risk for growers and spray contractors and is a great example of industry taking the initiative to address a serious issue.

The noteworthy success of the system is attributed to farmers who are proactively engaging and applying the data available when making spraying decisions. As of January 2023, 700 farmers were using the system. More information about the system can be found at website www.cradc.com.au.

The Board commends this industry initiative and, alongside the EPA's regulatory focus on pesticides, recognises the significant and widespread positive impacts from extensive community and business outreach programs, training and monitoring activities.

Marine incidents

In recent months, the EPA attended multiple maritime incidents including boat fires, sunken vessels and diesel spills. For such cases, the EPA provides technical advice on waste and pollution issues and environmental controls.

Although the following examples occurred after the reporting period for this statement, they serve as examples of the range of actions taken by the EPA in 2023.

In July 2023, there were two consecutive incidents in Wollongong Harbour where the EPA worked with NSW Port Authority and Fire and Rescue NSW to clean up debris and prevent the spread of diesel.

On 10 August 2023, an oil spill in Sydney Harbour caused interruptions to Taronga Zoo operations. The EPA worked with NSW Port Authority to gather information and provide advice on when Taronga Zoo could safely reopen its intake pipe from Sydney Harbour to the seal enclosure.

On 2 September 2023, the EPA assisted with a response to a vessel fire at a dock in Woolwich. Booms were set up to catch run-off foam used to extinguish the fire. Despite the efforts of emergency services, the vessel sank, spilling diesel into the water. Maritime issued a clean-up notice under the *Marine Pollution Act 2012* to the owner of the vessel.

EPA intervenes as white spot disease threatens prawn farms across northern NSW

White spot disease was detected in three northern NSW prawn farms in early 2023. Two of the farms were regulated by the EPA under Environment Protection Licences.

The EPA worked with NSW Department of Primary Industries (DPI) and licensees to decontaminate the infected ponds and dispose of the affected prawns. The EPA also provided technical advice to DPI to ensure that water and discharges released from the farms met strict environmental standards and protocols to protect people, aquatic life and livestock.

Hypochlorite, commonly known as chlorine, is recommended by the Australian Aquatic Veterinary Emergency Plan and is the preferred method for treating prawn farm water where white spot has been confirmed. Use of chlorine assures NSW trading partners that decontamination procedures follow the agreed national strategy for on-farm eradication of white spot.

Spotlight: Regulatory compliance of power stations

The EPA has been working with all power station operators in NSW to strengthen monitoring and reporting requirements and tighten air emission limits. This will improve transparency and provide greater consistency of environmental regulation across the sector. All coal fired power stations are now continuously monitoring stack emissions.

The EPA has a comprehensive and robust framework for regulating power stations in NSW. This framework includes a contemporary and innovative range of compliance and enforcement tools, complemented by strong penalties and the ability to seek court orders to redress environmental impacts and recover any monetary benefits from non-compliance.

The Board supports air pollution from dust as a regulatory priority for 2023–24. Due to likely seasonal and climate changes, the EPA will be taking a place-based approach to reduce air pollution from high dust emitting activities such as mine sites and power stations. The Board will remain abreast of regulatory priorities through regular updates from the EPA Executive.

2023 Sustainability Partnerships program targets climate change

The Board supports the EPA’s 2023–24 regulatory priority which aims to reduce air pollution from dust.

The 2023 Sustainability Partnerships program is targeting climate change to:

- focus on gaps in the climate change action plan
- improve the EPA’s understanding of industry and regulated community needs (e.g. agricultural sector, waste sector, local government)
- support pilot schemes that could inform future programs for the EPA
- improve community perception of the EPA’s role in climate change
- strengthen the EPA’s regulatory role through the continued implementation of its regulatory framework (listen, educate, enable, influence).

Conclusion

Regulated industries have navigated a variety of complex environmental, social and economic challenges in recent years. The Board notes that industry performance is also evidenced by the EPA’s prosecution results, trends in risk-based licensing, incident response and industry case studies.

The impacts of climate change are placing a growing impetus on climate change risk awareness, mitigation and adaptation. The Board encourages industry participation in sustainability partnerships to target climate change together as we look to a future of higher temperatures; increasingly extreme bushfire behaviour; more frequent and severe storms, floods and droughts; sea-level rise; and coastal erosion.

4

Part 4A:

Report on progress of 2021–22 Board recommendations

The Board makes annual recommendations to help improve the performance of the EPA and EPA-regulated industries. In 2021–22, the Board made six recommendations for the EPA, four for the Minister and two for industries.

2021–22 recommendations for the EPA

- Support industry to reduce climate risks and decarbonise
- Improve the EPA’s customer service
- Prioritise working with other jurisdictions for harmonisation and best-practice learning
- Promote value chains that enable a circular economy
- Embed EPA’s regulatory approach and consistency
- Regulatory actions that are risk-based, informed and rapid

2021–22 recommendations for the Minister

- Support a data-driven organisation
- Secure alternatives to waste levy funding
- Resilience to disasters
- Sinking fund for legacy contaminated sites

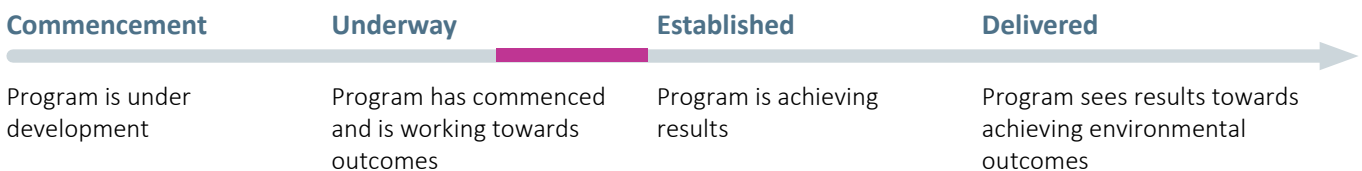
2021–22 recommendations for industry

- Identify and use available funding to move towards a circular economy
- Continue steps to support and drive cost-effective decarbonisation

Progress on these recommendations is tracked below.

EPA actions in response to the 2021–22 recommendations for the EPA

Previous year’s recommendation: **Support industry to reduce climate risks and decarbonise** – the Board notes the development of the EPA’s climate change policy and action plan, and recommends that the EPA supports its stakeholders to build their climate change responses.



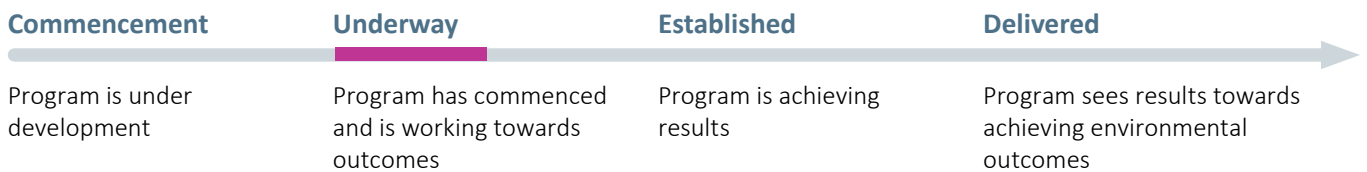
PART 4A: BOARD RECOMMENDATIONS

The EPA is implementing its *Climate Change Policy* and *Climate Change Action Plan 2023–26*, which is supporting industry to adapt to a changing climate and reduce its greenhouse gas emissions. In doing so, the EPA is working closely with the Commonwealth and other Australian jurisdictions to align regulatory standards, where possible.

The EPA is focusing on enabling and supporting best practice and building collaborative processes to ensure its actions are meaningful, feasible and cost-effective. In 2023, more than 2,100 environment protection licence holders were surveyed to understand how the EPA can best support industry to reduce greenhouse gas emissions and the impacts of climate change on industry operations. Some options include assisting industry to prepare, implement and report on climate change mitigation and adaptation planning. The development of a dashboard and milestone reporting to track waste strategy outcomes is also being explored.

The action plan’s implementation is on track. However, longer-term resourcing is needed to fulfil the EPA’s statutory duty as NSW’s climate change regulator. The \$7.5 million over two years secured by the EPA through a memorandum of understanding with the Office of Energy and Climate Change is for the delivery of actions considered critical to achieving NSW interim net zero targets. However, it is only an interim funding solution.

*Previous year’s recommendation: **Improve the EPA’s customer service*** – The Board recommends that the EPA continues to investigate and implement improvements to its ‘front door’ customer service, with particular focus on triaging high priority incidents and reports.



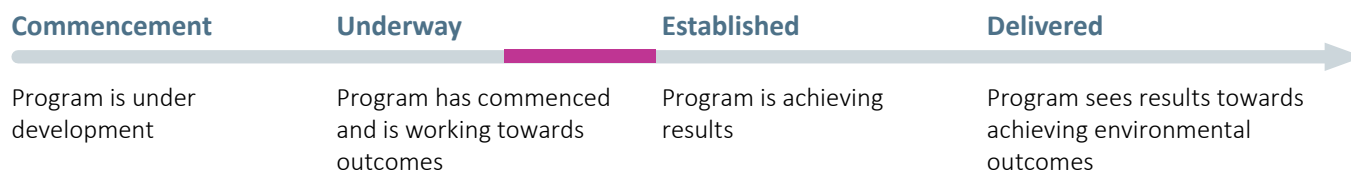
The EPA is evolving how it engages with stakeholders to create a more timely, consistent and collaborative dialogue. The change in approach is designed to better understand the issues impacting stakeholders and enable more opportunities to work together. As part of these changes, the EPA has increased capability in its engagement team so community groups, councils and licensees have a familiar and regular contact within the organisation.

To measure the effectiveness of the EPA’s revised approach to stakeholder engagement, an annual ‘pulse’-style online survey will be used to gain insights from stakeholders and community around themes such as trust, effectiveness, satisfaction, prioritisation and service levels.

The Board commends the revised approach to stakeholder engagement – and the measures of its effectiveness – and looks forward to seeing the resultant increased opportunities for the EPA to engage directly with stakeholders and increase its presence in the community.

A review of the EPA’s written communications is also underway to make sure the language and tone used reflects the EPA’s professional standards and values.

*Previous year's recommendation: **Prioritise working with other jurisdictions for harmonisation and best-practice learning*** – the Board recommends that the EPA continues to take a leadership role and engage with its federal and state counterparts to increase regulatory cohesion and harmonisation across borders.



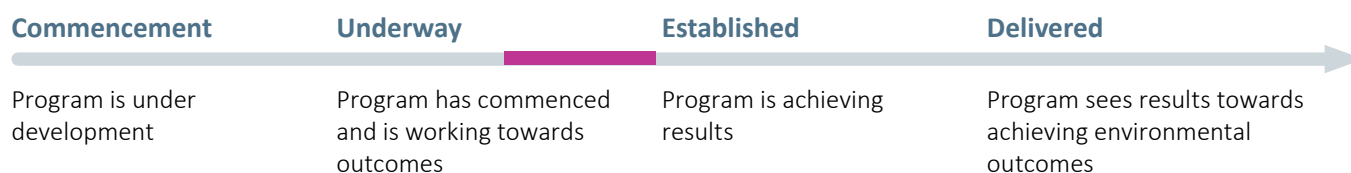
The EPA recognises the value of collaboration, shared best practice and harmonising regulations with our interjurisdictional government partners. The EPA regularly meets with other jurisdictions through forums such as the Heads of EPA (HEPA) and the Environment Ministers meetings, working together to form national consistencies.

Key achievements recently completed include:

- developing proposals to implement state-based requirements for the national industrial chemical environmental management standard
- compliance campaigns in high-risk sectors to assess the implementation of national codes for radiation protection.

The EPA will continue to actively lead and participate in work that drives innovation and cross-border regulatory consistency through inter-agency, industry and academic networks, HEPA and meetings with Environment Ministers. Part 2b of this report provides more information on regulatory consistency across jurisdictions.

*Previous year's recommendation: **Promote value chains that enable a circular economy*** – the Board supports the effective creation of markets by considering any input material's end-of-life prior to production and identifying options to reduce or remove any impediments to uptake and implementation of a circular economy.



The Board is pleased by the progress of the EPA's waste and sustainable materials strategy, which outlines three key objectives: (i) the priority infrastructure, regulations and markets that will facilitate the transition to a circular economy, (ii) decarbonising the waste sector and (iii) tackling problem waste streams that have a negative impact on human health and the environment.

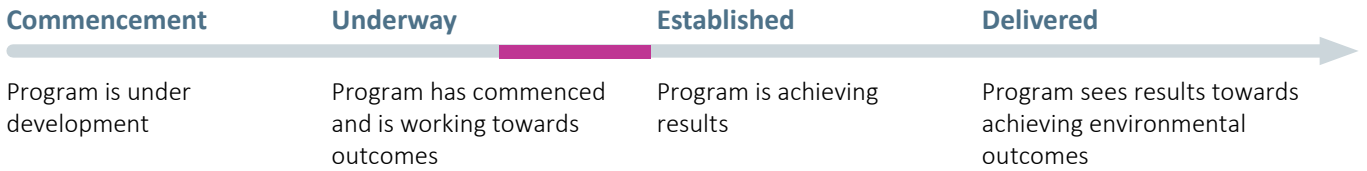
As part of the strategy:

- the EPA has partnered with Infrastructure NSW in preparing a Protection of the Environment Policy (PEP) that requires public authorities to reduce embodied carbon in design and construction of infrastructure projects and opt for substitute materials derived from waste streams

PART 4A: BOARD RECOMMENDATIONS

- three new recycling facilities are on track to open by the end of 2024 as a deliverable of EPA’s \$10 million Circular Solar grants program. This program is aimed at reducing solar panels and associated battery waste entering landfill, and supporting the evaluation of existing and projected growth of e-waste in NSW
- the Minister for the Environment has approved a \$4.4 million tranche of priority initiatives funded through the \$37 million carbon recycling and abatement fund to address identified industry barriers to circular remanufacturing of coal ash, waste tyres and asphalt recycling in NSW. Options for remanufacturing paper, cardboard and food organic waste streams are also a focus.

*Previous year’s recommendation: **Embed the EPA’s regulatory approach and consistency*** – The Board notes the improved efficiency and consistency of EPA’s regulatory approach through the regulatory framework and that, in the spirit of continual improvement, there is still room for further improvement.

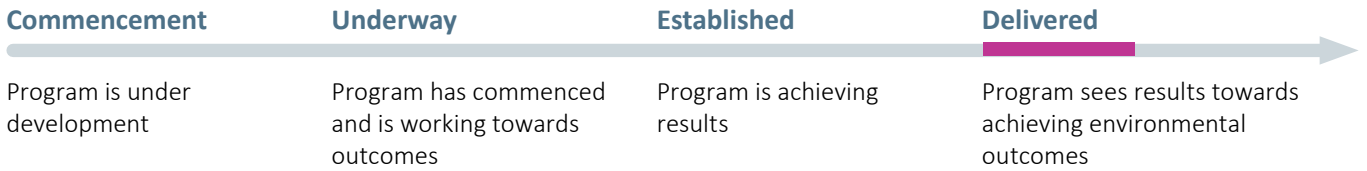


The Board requires the EPA to be a proactive and responsive organisation that communities and industry can look to for leadership, expertise and advice.

In 2022–23, the EPA underwent a significant realignment aimed at building a more collaborative, effective and purposeful organisation. The Board supports the realignment and the EPA’s clear focus on improving regulatory practice and integrating its regulatory framework throughout the EPA’s operations. This will achieve the best possible environmental outcomes for the people of NSW.

The Board look forward to ongoing engagement during the review of the EPA’s strategic plan and regulatory framework, both of which are due in June 2024. The renewal of these strategic documents is considered an opportunity to further promote and enable regulatory consistency locally and across jurisdictions.

*Previous year’s recommendation: **Regulatory actions that are risk-based, informed and rapid*** – The Board noted the EPA’s risk-based approach in prioritising environmental risks. It recommended that the EPA continue with this approach while working with its inter- and intragovernmental partners, and industry and community stakeholders, to address risks.



The Board acknowledges the ongoing, extensive engagement the EPA has with government agencies, industry stakeholders and communities to understand and tackle rapidly emerging and complex risks to human health and the environment.

The EPA has formalised an internal process to horizon scan, identify, prioritise and address rapidly emerging risks, referred to as regulatory priorities. When regulatory priorities are identified, a regulatory approach is designed, guided by the EPA's regulatory policy and framework, to mitigate and de-escalate risks. This includes broad engagement across government agencies and affected industry and communities.

Status of recommendations for the Minister

*Previous year's recommendation: **Support a data-driven organisation*** – The Board notes that the EPA has developed a wholesale digital transformation strategy. The strategy would enable the EPA to use its data more for making current regulatory decisions and identifying future risks. The strategy would also make community interactions with the EPA easier, with reduced call times, a better experience for web users and easier licence applications, as well as removing overheads from the maintenance of legacy systems. The Board suggests that the Minister work with the EPA to identify opportunities to realise this strategy.

The NSW Government acknowledges that inter-agency data sharing is a key challenge for the environment portfolio that needs to be addressed.

The EPA is becoming a data-driven organisation with developments underway to improve Environment Line cases, incident management and data intelligence. Also, making it easier for our stakeholders to apply for a licence, with improved web-based experiences and more user-friendly applications.

To support the EPA's initiatives, the Board is introducing a subcommittee focused on intelligence, data and analytics to further lift maturity in these important areas.

*Previous year's recommendation: **Secure alternatives to waste levy funding*** – The Board recommends that the Minister be aware of the impact of the current funding model for the EPA, which includes a proportion of the waste levy, and look for ways to mitigate or manage the risk that entails. The current funding model could have unintended consequences for EPA operations, for instance if the waste levy were significantly reduced (e.g. if the EPA met its stated waste reduction targets).

The Minister for Climate Change and Minister for the Environment has initiated a review of the waste levy. This follows a commitment under the NSW waste and sustainable materials strategy for the NSW Government to deliver formal, five-yearly reviews of the waste levy in response to recommendations from the NSW Auditor General.

*Previous year's recommendation: **Resilience to disasters*** – The Board recommends that the Minister support the EPA in establishing an enterprise resilience model with built-in surge capacity that enables the agency to withstand and absorb the ongoing and compounding impacts of climate-change-related disasters. As NSW Environmental Services Functional Area Coordinator, the EPA needs to be able to plan for and fund surge capacity in a similar manner to other emergency service organisations.

The EPA's flood response and immediate recovery operations amounted to 30,000 hours of staff time that significantly disrupted core business activities, including scheduled inspections of contaminated sites and high-risk licensee activities, and led to a slower turnaround time in determinations of notified contaminated sites.

The EPA has a dedicated Incident Management Unit which leads the planning and response to emergencies and disasters. The EPA's surge capacity for response and recovery operations is managed through the establishment of an internal deployment pool. Availability of staff and training ultimately determine the success of this program. This year, the EPA's surge capacity has been increased significantly by providing Australasian Interagency Incident Management System (AIIMS) training to 40 officers, plus additional incident management training for specialised roles.

Under the present structure, the Board notes that core business operations remain vulnerable to significant events that require a significant and sustained response from EPA staff.

*Previous year's recommendation: **Sinking fund for legacy contaminated sites*** – The Board asks the Minister to support the EPA's efforts to secure a sustainable funding solution for remediating and managing legacy contaminated sites. This will improve the EPA's capacity to respond to unfunded legacy contaminated sites and improve environmental health outcomes.

Contaminated sites are one of the EPA's 2023–24 regulatory priorities, with a focus on applying financial controls to high-risk licensed facilities. The EPA is working together with Property and Development NSW to consider available options that will prevent the clean-up of premises becoming the responsibility of the State.

Status of recommendations for industry

Previous year's recommendation: **Identify and use available funding to move towards a circular economy** – The Board recommends that industry makes use of funding opportunities to move NSW towards a circular economy. It notes, for example, that there is currently funding available for the development of markets for end-of-life tyres, and encourages industry to engage with this.

The NSW Government is investing \$356 million to deliver priority programs and policy reforms under the *NSW Waste and Sustainable Materials Strategy 2041* and the *NSW Plastics Action Plan* to help transition NSW to a circular economy and help mitigate impacts from climate change. The investment builds on a number of successful initiatives and programs funded through the Waste Less Recycle More initiative.

Funding totalling \$6.2 million was awarded to support the roll out of food and garden organics (FOGO) services to an additional 290,000 NSW households, bringing the number of councils offering the service up to 56 of 128 councils. Grants worth \$1.25 million were awarded under the Circular Plastics Program to build additional infrastructure to process hard to recycle plastics. The NSW Litter Prevention Strategy and the Illegal Dumping Prevention Strategy, and their associated grant programs, were released.

These grants will help NSW drastically reduce its reliance on plastic and take us towards NSW's target of tripling the plastics recycling rate by 2030. The Board strongly supports industry take-up and encourages all sectors to be responsive and adaptive, to embrace and leverage the economic and market advantages of a circular economy.

Previous year's recommendation: **Continue steps to support and drive cost-effective decarbonisation** – The Board recommends that industry continues these steps while implementing adaptation initiatives that build resilience to climate change risks. The Board notes that the EPA's climate change policy and climate change action plan will help industry and the community to reduce greenhouse gas emissions and support resilience.

The EPA's *Climate Change Policy* and *Climate Change Action Plan 2023–26* outlines the comprehensive regulatory approach and actions the EPA will undertake to address the causes and consequences of climate change in NSW. The policy and action plan are a result of extensive research, consultation and stakeholder engagement to identify how the EPA can best support industry to decarbonise and build greater preparedness and resilience to climate change risks.

To support stakeholders in climate change adaptation, the EPA is considering options for effective stakeholder engagement tools to issue updates and advice about the action plan. A separate implementation webpage is also being considered. The Board looks forward to seeing these developments and insights on industry uptake.

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Part 4B:

The Board's recommendations for 2022–23

New recommendations for the EPA

- Make better use of data and available technology (including drones) to address regulatory priorities and respond to pollution complaints.
- Proactively collaborate with community groups, Aboriginal knowledge holders and the Department of Health regarding proposed pathways to address and alleviate health concerns arising from pollution.
- Explore opportunities for further use of Protection of the Environment Policies (PEPs) to address environmental issues of regional and industry-wide significance.
- Provide advice to the Minister about the adequacy of penalty and enforcement orders and tools that could be made available to the Land and Environment Court and the EPA to facilitate environmental restoration and deter environmental crime and non-compliance with environmental legislation.
- Noting that the United Nations is seeking to better track progress on Sustainable Development Goals, consider adopting a consistent subset of indicators in NSW State of the Environment reporting to help track progress towards achieving those goals in NSW.

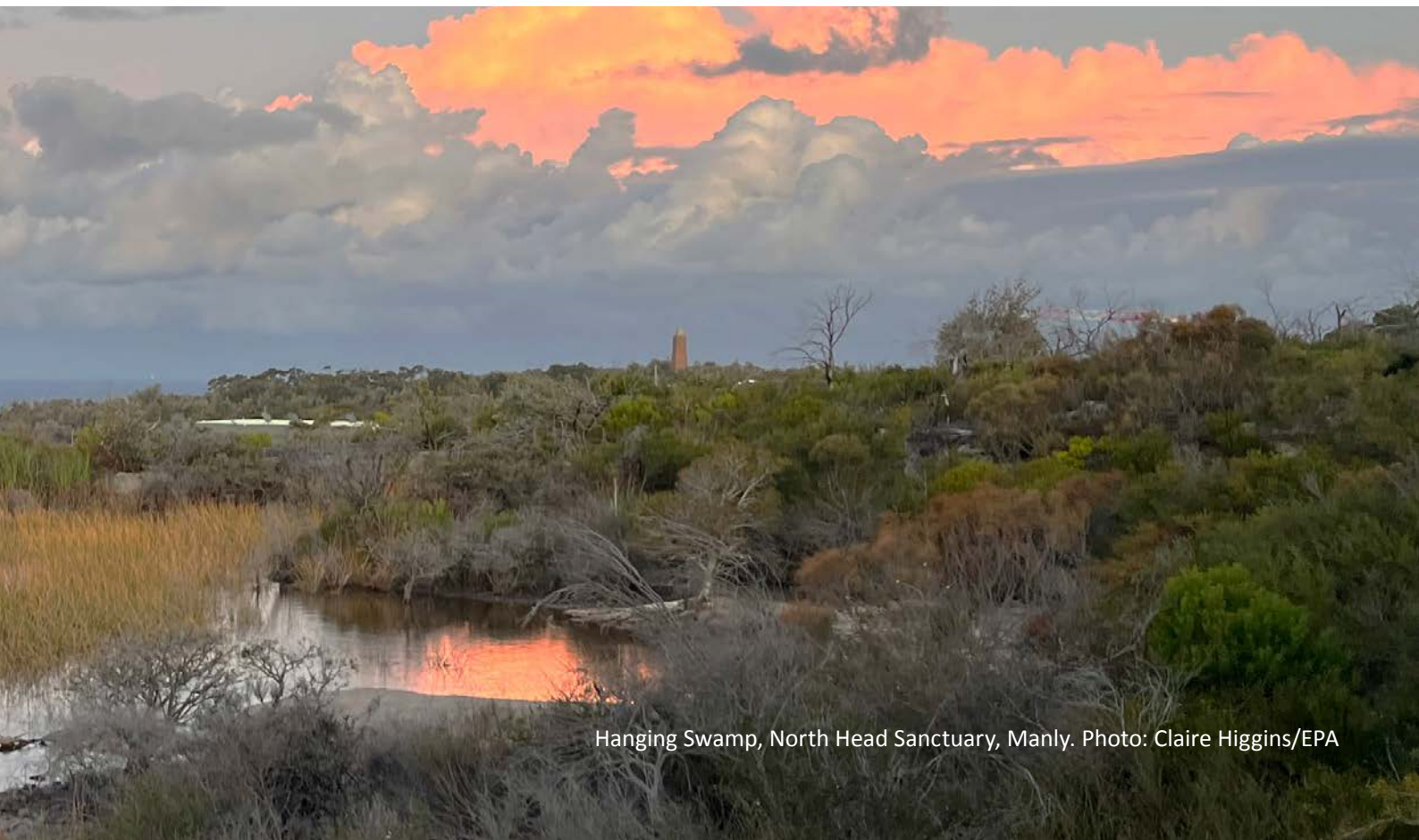


New recommendations for the Minister

- Seek whole of NSW Government consensus and support for an integrated circular economy and waste infrastructure plan and implementation pathway.
- Continue to support the harmonisation of environmental policies and standards at a federal level, and look for opportunities to create harmonisation where it may enhance industry investment and innovation for improved environmental outcomes.

New recommendations for industry

- Improve resilience planning by anticipating fire, flood and other climate-induced events beyond previously experienced norms and implement works and strategies to address risks.
- Consult closely with Aboriginal knowledge holders and local communities to better understand the risks and impacts of industry operations at a local level.



Hanging Swamp, North Head Sanctuary, Manly. Photo: Claire Higgins/EPA



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