

Regulatory Strategy



Prepared by: Environmental Performance and Coordination, Department of Environment and Heritage Protection
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First published in 2013. This is version two of the Regulatory Strategy and includes amendments to how the department assesses applications and monitors performance.

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Foreword

The Department of Environment and Heritage Protection is responsible for managing the health of Queensland's environment, protecting its unique ecosystems, and conserving the state's built heritage. The department is also committed to enabling sustainable long-term economic development in Queensland.

The department's vision is to be Australia's most respected and responsive environment and heritage protection regulator. Fundamental to this vision is strong risk-based regulation. The department's regulatory approach is outlined in this Regulatory Strategy, which addresses community expectations of strong environmental management, as well as industry expectations of faster approvals and reduced regulatory burden.

There has already been a significant shift in the way the department's environment and heritage regulatory activities are being undertaken. This strategy builds on that shift by acknowledging that industry is best placed to identify the most appropriate way to manage their activities to ensure environmental outcomes are achieved and standards are maintained. This presents industry with a new opportunity to adopt innovative approaches and to manage their activities to most effectively meet the standards or outcomes set by government.

This approach will be complemented by the department's adoption of a sophisticated and targeted approach to identifying environmental risks, increasing compliance and taking strong enforcement action where necessary.

The department's role is to clearly articulate the environmental outcomes industry must achieve. Where the risk to the environment is greatest, standards will be higher and if necessary, compliance and enforcement actions stronger. Regulatory effort is directed towards reducing environmental risks through a robust problem-solving approach to deliver real, measurable results. A wide range of regulatory tools will be used to solve complex issues, for example the use of economic instruments to achieve environmental outcomes.

The department is focused on communicating with its customers and capitalising on risk-mitigation opportunities through the establishment of cooperative partnerships. We will also collaborate with other agencies, particularly with data systems, to enable more efficient delivery of many services.

Implementation of the Regulatory Strategy will ensure industry is able to prosper while ensuring Queensland's unique environment and heritage places are well-managed and protected now and into the future.

Jonathan (Jon) PC Black

Director-General
Department of Environment and Heritage Protection



Introduction update

This Regulatory Strategy outlines the long-term vision for the Department of Environment and Heritage Protection's regulatory, compliance and enforcement activities.

This vision includes a regulatory framework which is responsive to the needs of the government, industry and the community.

At its core this strategy reinforces the department's objective of strong environmental management supporting sustainable economic development.

Over time this strategy will set the direction for a significant cultural and operational change in the way the department undertakes its role.

These activities will lead to:

- ▶ a significant streamlining in application processes
- ▶ an increased focus on effective and targeted compliance activities
- ▶ a more consistent application of strong but proportionate enforcement activities
- ▶ a formidable specialist knowledge base—linked to industry and academic partners—for all major activities that pollute.

This strategy also acknowledges the growing importance of building an improved voluntary compliance culture within industry.

To assist industry improve its compliance practices the department will set clear expectations about acceptable standards of environmental performance, as well as publish easy to understand guidance material and information to assist customers to meet their environmental obligations. The department will not impose restrictive conditions about how environmental risks are to be managed, providing business with enough scope to develop innovative environmental solutions.

This information will assist industry to better understand its responsibilities in achieving good environmental practices, and give operators every opportunity to know what their environmental obligations are.

For those industry members who choose not to comply with their obligations, the department will be consistent in taking prompt, strong enforcement action. This enforcement will provide assurance to the vast majority of industry members that do act responsibly and meet their environmental obligations that the department is consistently dealing with those who do not.

Critical to the strategy's success is effective engagement with the department's customers, their industry associations and the supporting consulting industry—to ensure the new regulatory approach is understood. This engagement will also include expanding the use of accredited third party auditors to ensure that solutions developed by customers are appropriate and effective.



What does the department regulate?

The department is responsible for Queensland's environment and heritage protection laws and regulations and regulates activities under the:

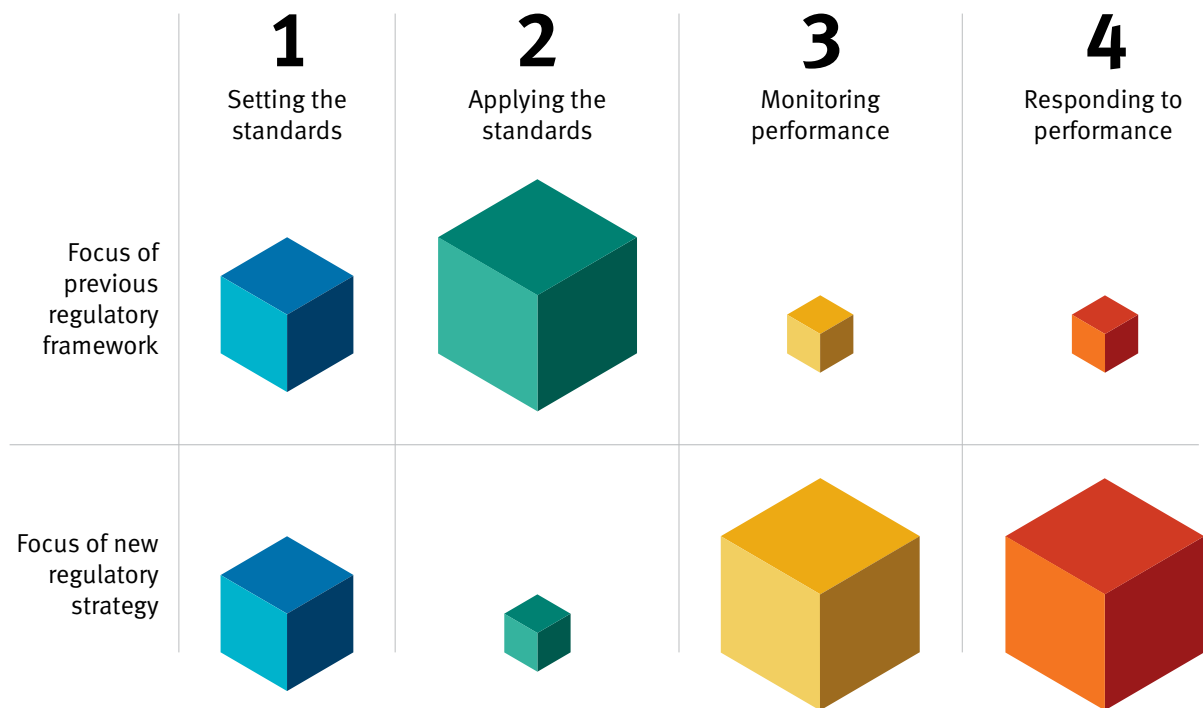
- ▶ *Coastal Protection and Management Act 1995*
- ▶ *Environmental Protection Act 1994*
- ▶ *Nature Conservation Act 1992*
- ▶ *Queensland Heritage Act 1992*
- ▶ *Sustainable Planning Act 2009*
- ▶ *Waste Reduction and Recycling Act 2011*
- ▶ *Water Act 2000 (Chapter 3)*

How does regulation work?

The department's many different types of regulatory activities can sometimes seem complicated. These activities can be broken down in four simple stages.

They are:

1. Setting the standards that clients must meet.
2. Applying those standards to specific cases by assessing applications for approvals.
3. Monitoring the performance of activities that have been approved.
4. Responding to that performance, including by taking strong, proportionate and consistent enforcement action.



What activities will the department implement under its Regulatory Strategy?

To help achieve the Regulatory Strategy's vision the department will:

▶ Introduce new policies and amendments to legislation to cut red tape and streamline processes that are focused on strong environmental outcomes.

▶ Consult with industry associations, peak bodies and community groups on regulatory matters that affect their members.

▶ Develop easy to understand education and information material for clients and departmental staff, including guidance on making and assessing applications, complying with the department's expectations and taking enforcement action.

▶ Introduction of market-based incentives which will provide clients with greater flexibility to meet their environmental obligations, for example, water quality offsets.

▶ Adopt new technologies, such as innovative remote sensing platforms, to help identify high risk activities requiring closer on-ground scrutiny.

▶ Publish regular compliance plans which outline priority compliance areas.

▶ Introduce measures to quantify the continued improvement in application processing times and industry compliance.

▶ Distribute compliance alerts, prosecution bulletins and other information to clients, industry associations, peak bodies and the community.

Benefits to industry	Benefits to the environment
<ul style="list-style-type: none"> ▶ More certainty and consistency in approval conditions ▶ Quicker approvals ▶ More scope to develop innovative, low-cost environmental solutions ▶ Reduced compliance costs 	<ul style="list-style-type: none"> ▶ More best practice environmental management measures are adopted by industry ▶ Assessment based on environmental risk ▶ Allows increased proactive compliance ▶ Greater education about environmental management

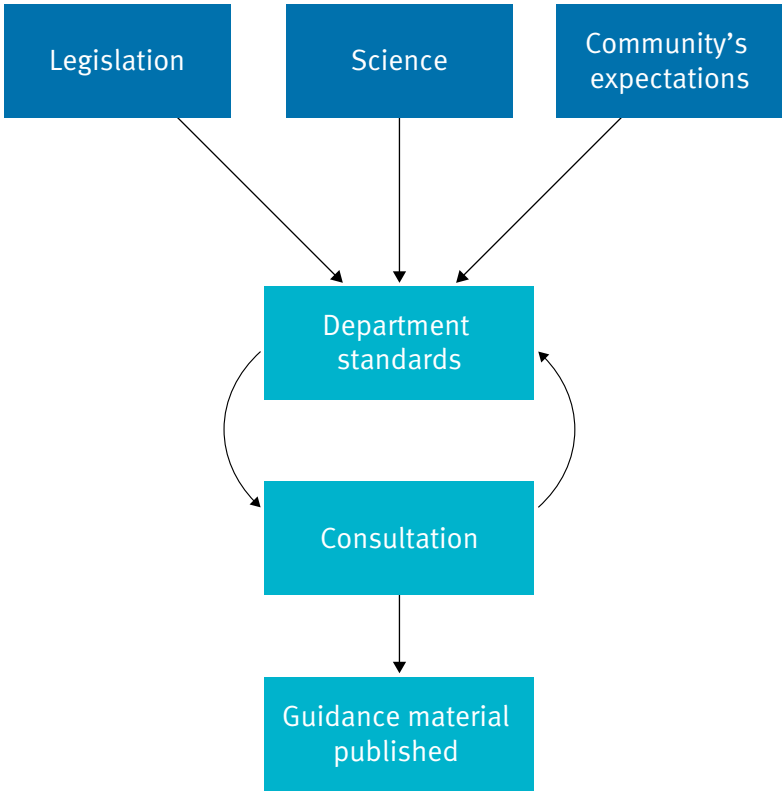


Stage 1 – how does the department set the standards that clients must meet?

Queensland’s environment and heritage protection laws outline the standards that different clients must meet. In addition to these standards set down in law, there are also other standards set by the department under various policies. These departmental standards are based on the latest available science and consideration of the community’s expectations that the environment is protected from undue harm by industry’s activities.

Guidance material will be published to assist clients in making applications and meeting the department’s standards.

When the department prepares new legislation or amendments to legislation, or when it updates its policies, it will consult appropriately with industry associations, peak industry groups and the community to discuss the practical implications of any proposed changes. The department will encourage industries to take responsibility for their members’ environmental performance and develop their own standards of practice. The department will explore opportunities for co-regulation, for example, industry-led development of Codes of Practice.



Department’s responsibility	Client’s responsibility
Clearly setting environmental outcomes for industry to meet	Implementing actions to meet the environmental outcomes sought



Stage 2 – how does the department assess applications?

To assess a new application the department will:

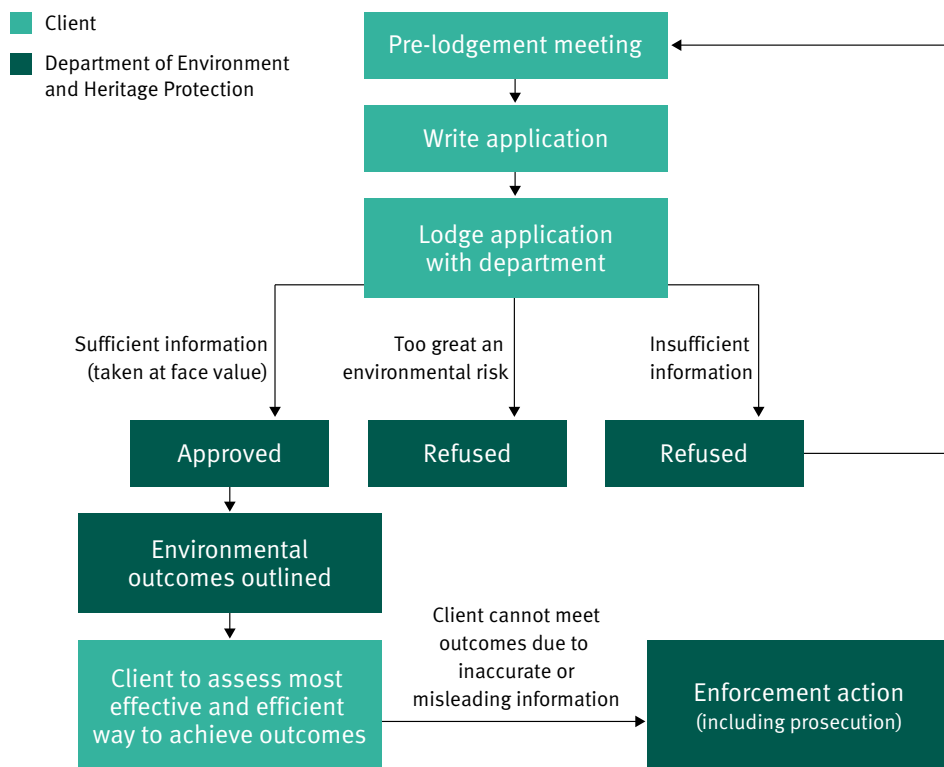
- ▶ ask for information to assess the risks posed by the activity
- ▶ set the environmental outcomes the client must meet by imposing wherever possible, non-prescriptive conditions on approvals.

The department encourages clients to hold pre-lodgement meetings so that they can fully understand the information that they must provide. If the information received is insufficient to assess the risk then the application will normally be refused.

Information received by the department as part of an application will be accepted at face value. Except for obvious errors or omissions, the department will not check the accuracy or sufficiency of information provided by an applicant. If a client is found to have provided inaccurate or misleading information then appropriate enforcement action, including prosecution, may be taken.

In making its decision on the application the department will either:

- ▶ Approve the application and outline the environmental outcomes that the clients must achieve. This will include setting release limits for activities with discharges to air, water or land. Except where there is a high risk of harm occurring, the department will not outline “how” the client must achieve these environmental outcomes. It is the responsibility of the client to assess the most efficient and effective way to achieve these outcomes for their own particular circumstance.
- ▶ Refuse the application. An application can be refused because the information supplied was insufficient to allow appropriate conditions to be imposed or because the proposed activity represents too great an environmental risk.



Department's responsibility	Client's responsibility
<ul style="list-style-type: none"> ▶ Make clear what information is required from applicants ▶ Ask only for information that is necessary to decide an application ▶ Assess applications in the shortest time possible 	<ul style="list-style-type: none"> ▶ Provide accurate, complete information to support an application

Stage 3 – how does the department monitor the performance of individual activities?

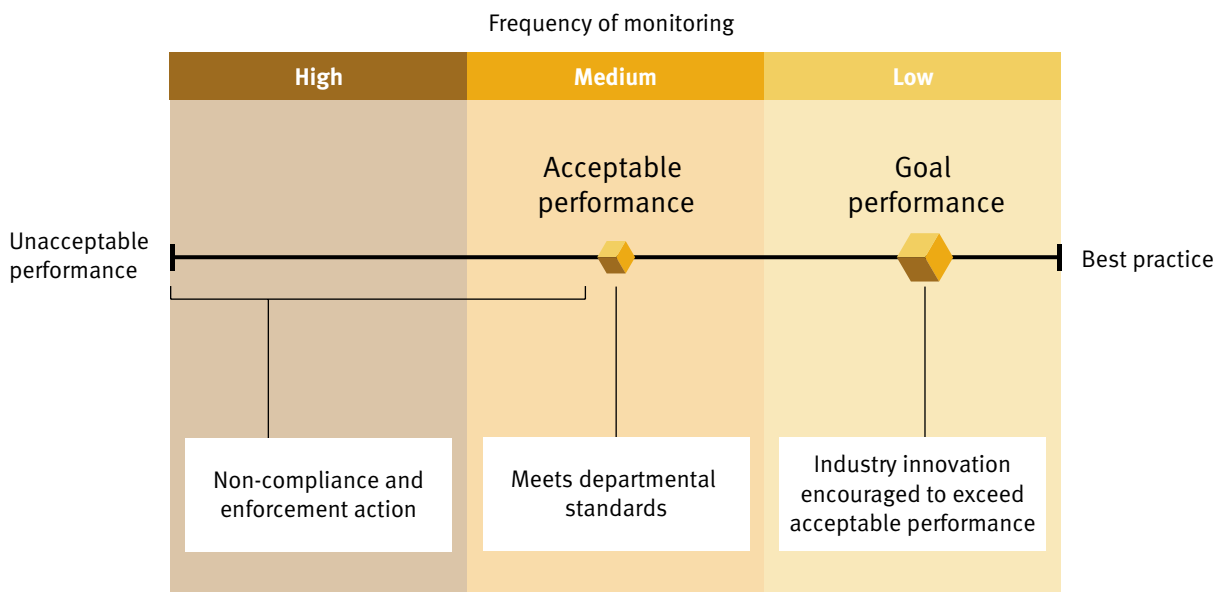
To ascertain whether clients are complying with their conditions and other legal obligations, the department will monitor their performance. The department will increase the amount of time it spends monitoring client performance, as it reduces the amount of time it spends assessing applications.

Monitoring activities carried out by the department will include desktop audits and inspections of sites that have an approval from the department. The department will also use new technologies to assist in identifying those who are not achieving the environmental outcomes.

The department will be targeted and transparent in deciding which industries or activities will be the focus of its compliance activities. It will be **targeted** by identifying the areas where breaches of its legislation pose the greatest risk to the environment or heritage places and taking action to reduce that risk. It will be **transparent** by publishing information about which areas it is focusing on and what it is doing about them in compliance plans.

The department will monitor client performance based on risk. Where individual clients represent a higher risk to the environment because of their poor performance, the department will check their compliance more frequently. Where a client consistently demonstrates good performance and manages its risk appropriately, the department will acknowledge that good performance and lower risk by conducting less frequent inspections.

Education and information sharing will also be a focus to highlight best practice opportunities to improve performance.



Department's responsibility	Client's responsibility
<ul style="list-style-type: none"> ▶ Identify areas of greatest risk and target its resources accordingly ▶ Reduce the regulatory burden on good performers, increase the consequences for poor performers ▶ Communicate compliance focus and actions ▶ Educate and share information on best practice environmental management 	<ul style="list-style-type: none"> ▶ Monitor its own performance ▶ Respond to risks before they become problems ▶ Notify the department of serious incidents

Stage 4 – how does the department respond to performance?

It is the goal of the department to foster a positive culture of compliance within industry.

To ensure clients do the right thing the department will make available easy to understand education resources and information guidelines to help them better understand their responsibilities.

Whilst the vast majority of clients are responsible and endeavour to achieve or go beyond their environmental requirements, there will be occasions where some clients fail to meet their obligations.

If the department finds that a client has broken the law, it will take action to bring the client back into compliance with its obligations. This may mean providing an opportunity for the client to voluntarily fix the problem, or taking enforcement action in accordance with the department's enforcement guidelines.

This enforcement action can include warnings, penalty infringement notices and prosecutions.

Where necessary to stop unlawful harm to the environment or a heritage place, the department will require someone to do, or not do, certain things to prevent harm from occurring. This may include stopping an activity or suspending an approval until the department is satisfied that the activity will be properly managed.

The department will provide information to industry and the community on its compliance and enforcement actions by publishing compliance alerts and prosecution bulletins.

Department's responsibility	Client's responsibility
<ul style="list-style-type: none">▶ Take enforcement action quickly, fairly and in accordance with the enforcement guidelines▶ Make clients aware of the consequences of breaking the law	<ul style="list-style-type: none">▶ Cooperate with the department▶ Take action to fix the consequences of an incident that causes harm to the environment or a heritage place



How will the department measure whether the Regulatory Strategy is successful?

The department will introduce a suite of measures to quantify the effectiveness of its Regulatory Strategy including:

- ▶ obtaining feedback via targeted questionnaires from clients in relation to the quality of information being provided by the department, and provide departments performance
- ▶ monitoring application processing times to ensure a reduction in overall processing time
- ▶ monitoring compliance activities against performance indicators in the department's compliance plan
- ▶ monitoring compliance of the activities the department regulates
- ▶ tracking improvements to environmental standards
- ▶ tracking progress of sustainable economic growth.

Where else can I find information on the department's regulatory activities?

The department's website—www.ehp.qld.gov.au—will be continually updated as new activities under the Regulatory Strategy are implemented, including the delivery of new education and information tools.



ehp.qld.gov.au

