



NSW Environment Protection Authority Board

# Regulatory Assurance Statement 2023–24





# 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 peoples' spiritual and cultural connection and inherent right to protect the land, waters, skies 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 embedded forever in Aboriginal and Torres Strait Islander custodianship of Country and culture.

EPA Aboriginal artwork: 'Nyuragil Barray Yawutung Warri', which translates as 'Spirited Country Journey Now' depicting the area from desert to mountains, by Worimi artist Gerard Black.

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# Message from the Chair



I am pleased to provide the NSW Environment Protection Authority Board's annual regulatory assurance statement for 2023–24 to the Minister.

Each year, the Board reports its views on 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 reflect on the progress of strategic programs, actions by the EPA to address regulatory priorities, and its response to incidents and emerging issues.

In 2024, the EPA reached the end of its *Strategic Plan 2021–24*. The Board worked with the CEO and executive team to develop the new *Strategic Plan 2024–29*. The plan develops the EPA's stewardship approach to the NSW environment and builds on the work already under way. Under the new plan, the Board will be monitoring the EPA's progress on caring for Country, enabling a safe circular economy and driving action to address climate change.

In 2023–24 the Board welcomed the establishment by the EPA of the Aboriginal Peoples Knowledge Group (APKG) to ensure that the perspectives of Aboriginal peoples are heard and considered by the EPA. The group operates with autonomy, free from direct control or influence by the EPA to ensure that its recommendations, guidance, advice, nurturing and challenges allow for best truth telling and best outcomes for Country. The Board fully supports this work which is important to the EPA's stewardship of the environment.

The Board is also proud of the EPA's work in preparing the 2024 State of the Environment report. This is a large undertaking with the EPA collaborating with many NSW government agencies and corporations to deliver this important report to the Minister for Climate Change, Minister for the Environment, before the end of 2024.

Throughout 2023–2024, the EPA supported the NSW environment by helping communities recover after flood events, encouraging climate action by industry and investigating supply chain issues relating to asbestos in mulch. It also made strides in continuously improving the way it works and relates to communities and industry. The environment can only improve with everyone working together.

A handwritten signature in black ink, appearing to read 'Rayne de Gruchy', followed by a period.

**Rayne de Gruchy AM PSM**

Chair of the Board

# Part 1. Introduction

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## About this statement

In preparing this statement the Board has considered the EPA's strategic direction, regulatory focus and operational approach, and reflected on its challenges and successes during 2023–24.

According to the Protection of the Environment Administration Act 1991 (POEA Act), this regulatory assurance statement includes:

- an assessment of the EPA's success in reducing risks to human health and preventing the degradation of the NSW environment (Part 2A)
  - consideration of whether the level of environment protection achieved by the EPA is satisfactory compared to other Australian jurisdictions (Part 2B)
  - an assessment of the performance of industries regulated by the EPA in reducing risks to human health and preventing environmental degradation, and of the impact those industries have on the environment (Part 3)
  - a review of progress made by the EPA in addressing recommendations made by the Board in its 2022–23 regulatory assurance statement (Part 4A)
  - a set of new recommendations from the Board for the EPA, and industries regulated by the EPA, to reduce risks to human health and prevent the degradation of the environment (Part 4B).
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## About the Board

The EPA Board is established under section 15 of the POEA Act. The Chair and part-time members are appointed by the NSW Governor on the recommendation of the NSW Minister for Climate Change, 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 science; industry policy; climate science and tipping points; corporate, financial, safety, audit and risk planning and management; Aboriginal cultural knowledge; water research; resources; and power generation and renewables. They also have established ties to business and community groups.

The functions of the EPA Board are to:

- a. determine the policies and long-term strategic plans of the EPA, including policies and plans relating to organisational governance and risk management
- b. oversee the effective, efficient and economical management of the EPA
- c. develop, and make available for public information, guidelines relating to the institution of criminal and related proceedings
- d. determine whether the EPA should institute proceedings for serious environment protection offences referred to in section 17 of the POEA Act



- e. advise the Minister on any matter relating to the protection of the environment (at the request of the Minister or on its own initiative).

In December 2023, the Board farewelled two members, Michael Rennie and Elizabeth Wild. Both had served on the Board from December 2018.

Sam Maresh was welcomed as a new member of the Board in May 2024. Sam brings with him more than 20 years of executive leadership and commercial experience in the resources, power generation, mining (critical minerals) and renewables sectors.

Current serving Board members are Rayne de Gruchy AM PSM (Chair), Tony Chappel (Chief Executive Officer), Carolyn Walsh, Professor Bradley Moggridge, Professor Chris Turney and Sam Maresh.

Further information on the Board members can be found at [www.epa.nsw.gov.au/About-us/Our-organisation/epa-board](http://www.epa.nsw.gov.au/About-us/Our-organisation/epa-board).

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## About the EPA

The EPA is an independent statutory authority established under the POEA Act. As the State's primary environmental regulator, the EPA works alongside the Australian Government and state and local governments to deliver environmental outcomes that support healthy environments, economies and communities.

The EPA's regulatory approach combines enforcement and education, business and community partnerships and economic mechanisms to address challenging environmental issues. As NSW Environmental Services Functional Area Coordinator, the EPA works alongside other agencies to prevent where possible, prepare for, respond to, and recover from incidents, emergencies and natural disasters.

## Part 2a. The EPA's regulatory performance






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### EPA Strategic Plan 2021–24

The Board is pleased with the progress the EPA is making to reduce risks to human health and preventing the degradation of the NSW environment.

In 2024, the EPA reached the end of its *Strategic Plan 2021–24*. The plan set clear direction and defined actions the EPA focused on to protect, restore, and enhance the NSW environment, as well as safeguarding human health. This report documents the progress made in the last year of the 2021–24 Strategic Plan.

The first half of 2024 saw the development of the EPA's *Strategic Plan 2024–29*, which came into effect on 1 July 2024. The new plan continues and builds on the work already underway, with focus areas reframed as strategic choices and regulatory priorities reframed as a targeted compliance program. Continuing the stewardship approach, the 2024–29 strategic choices the EPA will focus on are enable a safe circular economy; drive climate action and care for Country.

Ambitions	Vision		Our mission		Our Values	
	A healthy and sustainable future for NSW		Protect tomorrow together		Stewardship	
Strategic focus areas						
	Ecologically sustainable development	Climate change	Water quality	Legacy and emerging contaminants	Waste	
2023-24 regulatory priorities	Forestry	End of life tyres	End of life batteries	Contaminated sites	Flammable Solvents	Broadacre and intensive horticulture pesticide management
The core areas we regulate every day	Dangerous goods	Coal seam gas		Industrial chemicals		Native forestry
	Noise	Odour		Pesticides		Plastics
	Radiation	Circular Economy		Waste		Water
	Air	Climate change		Contaminated land		

## Progress in meeting the EPA Statement of Commitment to Aboriginal Peoples

In 2022 the EPA released its public Statement of Commitment to Aboriginal Peoples. This statement was introduced operationally across the agency and enhances the EPA's role as an environmental steward. The Board asked for an update on the EPA's progress in 2023–24 for each of the 12 commitments and notes the EPA is continuing to refine data collection methods to monitor performance.

<b>Work in respectful partnership with Aboriginal peoples</b>	<ul style="list-style-type: none"> <li>The inaugural APKG meeting was held in February 2024.</li> <li>The APKG provided knowledges and aboriginal perspectives to the <i>NSW State of the Environment 2024</i> including developing a 'Voice of Country' theme within the report.</li> <li>The APKG supported the review of the Underground Petroleum Storage System (UPSS) Regulation and worked with Operations on water quality issues.</li> </ul>
<b>Actively learn from and listen to Aboriginal voices, culture and knowledge</b>	<ul style="list-style-type: none"> <li>Mutti Mutti Elders are teaching operations teams about the cultural values of the River Red Gum Forests.</li> <li>Forestry training and regulation now has a keen focus on the awareness of local cultural sites.</li> <li>Continues working with Aboriginal Peoples through the home remediation programs.</li> </ul>
<b>Respect Aboriginal people's knowledge and science as an equal to western science</b>	<ul style="list-style-type: none"> <li>Cultural burning practices in western forestry operations are being explored in collaboration with local Aboriginal peoples.</li> <li>Involved in the review of the clean air regulation to exempt all cultural burns rather than requiring approvals.</li> </ul>

<b>Weave Aboriginal knowledges and science with conventional science into the EPA's decision making</b>	<ul style="list-style-type: none"> <li>• An Aboriginal Impact Statement template is now available as a tool for EPA staff, placing a cultural lens on projects.</li> <li>• Guung Butherin, The Flood Projects Team is partnering with the Jagun Alliance to enhance the EPA Water Quality Monitoring Programs.</li> </ul>
<b>Act boldly and bravely to play our part to mend and heal Country together</b>	<ul style="list-style-type: none"> <li>• Working closely with the NSW Asbestos Coordination Committee, for the active and safe management of asbestos in discrete Aboriginal Communities and Aboriginal owned housing, increasing Aboriginal peoples' understanding of asbestos risks, how to stay safe and who to contact if help is needed.</li> </ul>
<b>Ensure Aboriginal knowledge, science and Indigenous Cultural Intellectual Property is protected, and Aboriginal people have free, prior informed consent</b>	<ul style="list-style-type: none"> <li>• EPA Aboriginal Initiatives is exploring the potential to adapt and adopt the former Department of Planning and Environment's Indigenous Cultural Intellectual Property policy, supporting the protection of Aboriginal intellectual property and languages in the delivery of EPA services.</li> </ul>
<b>Address both the tangible and intangible cultural elements of environmental protection</b>	<ul style="list-style-type: none"> <li>• EPA operations staff are incorporating an awareness of Aboriginal heritage and biodiversity issues when working onsite.</li> <li>• Aboriginal Cultural Heritage values are being explored for inclusion in enforceable undertakings.</li> </ul>
<b>Deliver on results that have direct benefits for Aboriginal communities</b>	<ul style="list-style-type: none"> <li>• Working in partnership with the Barkandji Prescribed Body Corporate and Department of Climate Change, Energy, the Environment and Water's Science area to deliver the Ngaratja Warrkina project, to improve the water quality of the Baaka River.</li> <li>• Improving procurement opportunities for Aboriginal communities by supporting Aboriginal owned businesses to produce EPA branded promotional materials, personal protective equipment and artwork and catering for functions and events.</li> </ul>
<b>Embed consistent, meaningful, and trustworthy engagement with Aboriginal communities</b>	<ul style="list-style-type: none"> <li>• Working in partnership with the APKG to develop community consultations on the proposed Respect for Country legislation and helping communities better understand the functions of the EPA.</li> </ul>
<b>Develop Aboriginal cultural competency across the agency</b>	<ul style="list-style-type: none"> <li>• A Respectful Writing user guide created by the Aboriginal Initiatives team to support EPA staff better understand cultural writing protocols.</li> <li>• Winanga-li training is part of the induction package for new EPA staff members.</li> </ul>
<b>Increase Aboriginal employment across the agency to exceed public sector Aboriginal employment targets and to identify specific occupational gaps</b>	<ul style="list-style-type: none"> <li>• The Aboriginal Workforce Strategy is currently in development, to engage and support an Aboriginal and Torres Strait Islander workforce.</li> </ul>
<b>Monitor the impact of the commitment to Aboriginal peoples, Country, culture and spirit</b>	<ul style="list-style-type: none"> <li>• The Aboriginal Initiatives team is developing a framework to track and monitor how the Statement of Commitment is being embedded across all EPA Divisions.</li> </ul>



# EPA's regulatory performance in 2023–2024

## Progress of strategic plan focus areas in 2023–24

The Board is pleased with the continued progress of the five focus areas of the EPA *Strategic Plan 2021–24*. These core operations represent the diverse nature of the EPA's work. While the Board notes improvement in the space, it also encourages the EPA to continue to be more data driven in the way it monitors environmental performance and outcomes.

The Board recognises that the EPA manages projects and programs as change initiatives, and that through the successful delivery of these projects, significant benefits should be realised.

The *2023–24 EPA Annual Report* elaborates on the specific actions the EPA took throughout the year and can be found at [www.epa.nsw.gov.au/About-us/Strategy-and-reporting/annual-reports](http://www.epa.nsw.gov.au/About-us/Strategy-and-reporting/annual-reports).

Highlights of each strategic plan focus area are given below.

Strategic Priority	
<b>Water Quality</b> <b>Action to ensure sustainable and safe water for the community, ecosystems and for economic prosperity, and to support cleaner waterways.</b>	<p>Responding to water quality issues and administering environment protection licences to reduce water pollution is part of the EPA's core work.</p> <p>The Board commends the EPA for partnering with other government agencies such as NSW Health and WaterNSW, industry and communities involved in the management of water, and carrying out foundational work to strengthen water quality and sustainability measures in NSW.</p> <p>The Board notes the EPA is investigating and issuing clean up and prevention notices to Snowy Hydro to ensure alpine waters are free from chemicals leaching from construction zones.</p>
<b>Climate change</b> <b>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.</b>	<p>The Board continues to prioritise climate change as the most critical challenge facing the environment, our communities and society. The Board supports the significant strides the EPA is making towards decarbonisation, promoting a circular economy, and adapting to climate change and is pleased to note the NSW EPA leads the Climate Change Community of Practice.</p> <p>The <i>EPA Climate Change Policy</i> and <i>Climate Change Action Plan 2023–26</i> is now in its second year and the Board notes the progress made across multiple programs aligning with the <i>Net Zero Plan Stage 1: 2020–2030</i>.</p> <p>In March 2024, changes were made to the State's environment protection legislation. These included amendments to the <i>Protection of the Environment Administration Act 1991</i> (POEA Act) to clarify that the EPA's objective to reduce risks to human health and prevent the degradation of the environment includes taking action in relation to climate change.</p>
<b>Ecologically sustainable development</b>	<p>The Board acknowledges the significant achievements in ecologically sustainable development that the EPA has made in the past 12 months to strengthen partnerships with planning authorities. Most notably the release of the draft Climate Change Assessment Requirements and Greenhouse Gas Assessment</p>

Strategic Priority	
<b>Championing sustainable approaches to mitigate the cumulative impacts of industry on local communities and environments.</b>	Guide for Large Emitters ensuring large-emitting projects provide robust and consistent information to the EPA about their potential greenhouse gas emissions, aligning with net zero targets and legislation to better inform planning decisions.
<b>Legacy and emerging contaminants</b> <b>Action to prevent harm by targeting our efforts on high-risk legacy, current and emerging contaminants.</b>	<p>The Board acknowledges the wide variety of activities carried out by the EPA. This includes the work on chemical prioritisation, asbestos in discrete Aboriginal communities, PFAS chemicals, the Broken Hill Environmental Lead Program, and clean-up of debris and contaminants after major floods.</p> <p>Working closely with NSW Health and Transport for NSW in the response to asbestos found in mulch the EPA continues to take action to assess and address emerging contaminants.</p>
<b>Waste</b> <b>Action to reduce the harmful impact of waste and to drive behaviours that create a circular economy.</b>	<p>It is encouraging to see that significant progress is being made in reducing waste, reusing materials, and recycling resources to build a sustainable and efficient circular economy. Most notably this includes working with industry, key stakeholders and government agencies to discuss the emerging issue of battery fires in the waste sector and shortfalls in waste infrastructure,</p> <p>Despite these positive efforts to promote resource efficiency and recovery, the Board notes that significant issues remain. Per person waste generation has increased from 2.4 tonnes in 2015–16 to 2.7 tonnes in 2022–23. As the population of NSW continues to grow, the amount of waste households produces increases, highlighting the urgency to tackle this as a strategic priority.</p>

## 2023–24 regulatory priorities

The Board commends the progress made by the EPA on each of the seven regulatory priorities for 2023–24.

The EPA 2023–24 annual report provides in-depth updates on the actions carried out during the reporting year and can be found at [www.epa.nsw.gov.au/About-us/Strategy-and-reporting/annual-reports](http://www.epa.nsw.gov.au/About-us/Strategy-and-reporting/annual-reports).

Some key highlights of the EPA's performance in these priority areas are given below.

Regulatory priority	Response
<b>Broadacre and intensive horticulture pesticide management</b>	The Board acknowledges the growing community concerns around pesticide use. We are pleased to see the EPA carrying out compliance programs, collaborating with the community and state agencies to reduce community concern and improve industry compliance with the requirements of the <i>Pesticides Act 1999</i> and Pesticides Regulation 2017.
<b>End-of-life tyres</b>	The Board is pleased to see the EPA acknowledge the growing trend of stockpiling end-of-life tyres and take positive steps to improve their storage and tracking. This involves collaborating with key industry partners at key industry forums, with success in the Land and Environment Court for a prosecution relating to improper storage of waste tyres.
<b>Forestry</b>	The EPA uses a range of tools to regulate native forestry under the Integrated Forestry Operations Approvals and Private Native Forestry Codes and promote ecologically sustainable forest management.

Regulatory priority	Response
	<p>During 2023–24 the Board supported the EPA’s amendment to the Coastal Integrated Forestry Operations Approvals (IFOA) ‘Protocol 31: Matters covered by the approval’ protection measures to better protect greater gliders. This further enhanced the protection of koalas, glossy black cockatoos, swift parrots, squirrel gliders and other glider species on the forest estate.</p> <p>The Board notes the EPA’s response to the Audit Office of NSW findings in its Public Native Forestry Regulation Performance Audit Report and the specific recommendations for continual improvement, and will continue to closely monitor compliance.</p>
<b>Contaminated sites</b>	<p>The Board is pleased to see the EPA take a proactive approach to managing contamination, most notably working with government agencies. Working alongside SafeWork NSW and local councils, the EPA has undertaken enormous work in targeting legacy contaminants associated with UPSS on unused service station sites. The EPA will continue working with Councils into 2024-25 to minimise contamination from these legacy sites.</p> <p>The Board notes the EPA’s contribution to the Parliamentary inquiry into current and potential impacts of gold, silver, lead and zinc mining on human health, land, air and water quality in NSW.</p>
<b>Flammable solvents</b>	<p>The Board is pleased to see the EPA focus on the safe management of flammable solvents and assessing the human health and environment risks of the top 10 chemicals of concern. The EPA developed stronger management practices after collaborating with other government agencies to educate stakeholders to identify and reduce the risk of fire.</p>
<b>Air pollution from dust</b>	<p>The Board is encouraged to see the EPA invest in drones and other equipment to monitor and reduce air pollution from high dust-emitting activities such as mine sites. The Board is seeing long term benefits because of the EPA working directly with industry and community to reduce dust pollution.</p>
<b>End-of-life batteries</b>	<p>The management of end-of-life batteries, in particular lithium-ion batteries, remains a regulatory priority for the EPA. The Board notes that the EPA’s work has focused on educating the public on how to safely collect, store, transport, reprocess and dispose of batteries, to reduce the risk of fires in homes, businesses, garbage trucks and facilities. The EPA is also encouraging the safe recycling and repurposing of batteries so that fewer of them end up in landfill.</p>

## Part 2b. Jurisdictional comparisons

The Board encourages and supports the steps the EPA is taking to collaborate and learn from interstate agencies. This includes engaging across all three levels of government and international counterparts, industry and academia to ensure its regulatory policies and practices remain up to date, share best practice and adapt and respond 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 Australia and New Zealand (HEPA) and the Environment Ministers meetings, and that jurisdictions are working together to actively foster continuous improvement and promote regulatory consistency. The Board also notes that the EPA is taking the lead on several key environmental issues such as climate change and container deposit scheme harmonisation.

While the Board is confident the EPA is well aligned with other jurisdictions on some key environmental issues, it encourages the EPA to regularly benchmark itself against other comparable jurisdictions to identify opportunities for improvement and knowledge sharing.

### **State of the Environment report**

In 2024 the EPA produced its twelfth *NSW State of the Environment* report. This is published every three years and provides a snapshot of key environmental issues facing NSW. In preparing the report, the EPA continued to engage with various stakeholders and jurisdictions to establish best practices in environmental reporting and identify potential risks. Engagement is crucial to provide stakeholders with high-quality environmental information to ensure consistent and transparent reporting.

The 2024 *NSW State of the Environment* report will be publicly available mid-2025 with a link provided on the EPA's website.

### **National harmonisation of the site contamination auditor accreditation process**

The EPA chairs the Harmonisation of the Auditor Accreditation Process Working Group. Comprised of senior representatives from NSW, Queensland, Victoria, South Australia and Western Australia, the working group is developing a harmonised national accreditation process. This is to provide a streamlined and consistent process for the appointment of auditors across the country and ensure their high standards. NSW is working closely with South Australia who are the lead jurisdiction developing this work.

### **Container deposit scheme - national single point of entry for container approvals**

The EPA is leading a national project to integrate and harmonise container approvals processes required under all Australian container deposit schemes. This involves developing a single national portal for suppliers to use for all schemes. The project will significantly reduce the compliance burden for industry. It will also reduce regulatory burden for jurisdictions.

### **End-of-life batteries guidance project**

The EPA is supporting the Victorian EPA to develop and publish national guidelines for the safe handling of end-of-life lithium-ion batteries on behalf of HEPA.

### **Radiation**

Radiation protection safety standards are already well harmonised in Australia through the Australian Radiation Protection and Nuclear Safety Agency codes and standards included in the National Directory for Radiation Protection. We adopt this under the provision in s37 of the *Protection from Harmful Radiation Act 1990*. The EPA pursues greater uniformity through interjurisdictional forums including the Radiation Health Committee, Radiation Health and Safety Advisory Council and the Radiation Health Expert Reference Panel of the Standing Committee on Environmental Health (enHealth).

### **Dangerous Goods**

The EPA implements the national model laws in our legislation for dangerous goods transport. This legislation adapts as the laws are updated or new editions of the Australian Dangerous Goods Code are published. Extensive guidance materials explain regulatory obligations. A comprehensive review of the Australian Dangerous Goods Code is underway.

## Noise

The Noise Control Regulation 2017 review will align NSW with other jurisdictions regarding some types of noise labelling and (with Victoria) for use of air conditioners. Work is underway to increase harmonisation between NSW regulators by aligning the prescribed motor vehicle noise levels in the Noise Control Regulation 2017 with the Road Transport (Vehicle Registration) Regulation 2017, administered by Transport for NSW (TfNSW).

## Greenhouse gas pollution

In 2023–24 the EPA progressed work on Climate Change Assessment Requirements and a draft Greenhouse Gas Assessment Guide for Large Emitters. This requires proponents to assess potential greenhouse gas emissions, and opportunities to mitigate pollution from large sources.

The NSW EPA continues to lead the Climate Change Community of Practice as part of HEPA, an informal alliance of environmental regulation leaders from across the two countries.

## Pesticides

Pesticides user competency and training requirements are well-harmonised in Australia. The National Registration Scheme harmonises approval of agricultural and veterinary (Agvet) chemicals by the Australian Pesticides and Veterinary Medicines Authority (APVMA). Changes to the Pesticides Act regulation-making powers enable a Regulation to require pesticides users to prove they have done mandatory chemical use training to purchase pesticides. One of the aims of this scheme is to better align with similar requirements already in place interstate, notably in Victoria. This Board notes this scheme is still under development as part of the statutory review of the Pesticides Regulation 2017.

## Environmental Legislation Amendment (Hazardous Chemicals) Act 2024

Reforms to industrial chemicals management were made in March 2024 and included implementation in NSW of the national Industrial Chemicals Environmental Management Standard.

Reform of industrial chemicals environmental management in NSW has been made through changes to the *Protection of the Environment Operations Act 1997* to strengthen the regulation of industrial chemicals and to implement the Industrial Chemicals Environmental Management Standard in NSW. The changes were made under the *Environmental Legislation Amendment (Hazardous Chemicals) Act 2024*.

# 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 Chief Executive Officer, Tony Chappel.

The information in the following pages shows that industry performance is improving over time.



The Board also encourages industry to improve data transparency on performance relating to priority environmental issues to support government decision making and for public visibility.

## Regulatory report card

The Board notes that during 2023–24 the EPA addressed the backlog inspection of high-risk licences that arose during severe weather events and COVID-19 restrictions through the 2021–22.

	Measure	2019–20	2020–21	2021–22	2022–23	2023–24	Status
<b>Licences compliance</b>	Percentage of EPA licensees assessed as environmental management categories A & B	93.2%	94.3%	94.6%	95.5%	94.02%	✓
<b>Pollution incident response management plans</b>	Proportion of environment protection licensees with a pollution incident response management plan	100%	99.5%	99.7%	99.4%	99.18%	✓
<b>Licences risk-assessed</b>	Proportion of licences risk-assessed (includes licences with an assessment due by end of financial year.	89%	99.6%	100%	99.8%	99.81%	✓
<b>High-risk licences inspected</b>	Proportion of high-risk/proactive inspections carried out for compliance with environmental standards (target 100%)	88.7%	97.5%	86%	93%	100%	✓
<b>Environmental improvement programs</b>	Number and value of voluntary environmental improvement programs	10 \$16.6m	2 \$30.0m	2 \$1.1m	8 \$945,000	2 \$112,800	○
<b>Forestry</b>	Proportion of high-risk Crown forestry operations assessed for compliance (target 95%)	100%	90.9%	100%	100%	100%	✓
<b>Environmental liabilities protections</b>	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%	44%	x
<b>Contaminated sites</b>	Percentage of notified contaminated sites assessed, and a decision on whether regulation is required is made, within four months of notification (target 95%)	86%	91%	38%	35%	62%	○

	Measure	2019–20	2020–21	2021–22	2022–23	2023–24	Status
	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%	89%	○
	Proportion of terms and conditions of approved voluntary management proposals complied with (target 95%)	83%	79%	87%	88%	95%	✓

**KEY:** x future focus area    ○ Challenging    ✓ Stable

## Incidents and compliance reports

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.

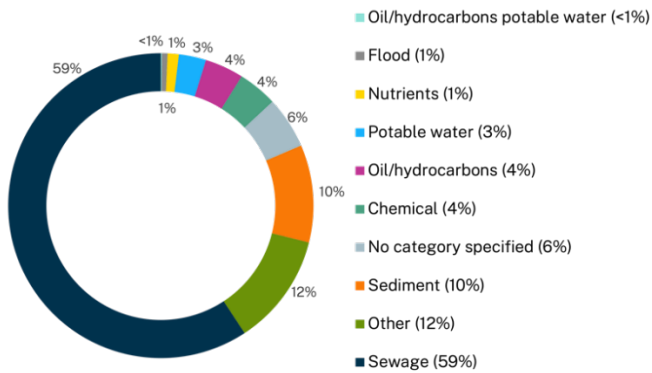
Incident type	No. of cases 2023–24	1 year trend	3 year trend
Water	2,869		
 Air	1,668		
Illegal waste dumping	690		
 Noise and vibration	520		
 Pesticides	359		
 Hazardous materials and waste	201		
 Native forestry operations	182		No data available*
 Land	152		
 Radiation	61		

**KEY:**  decrease in incident reporting     increase in incident reporting

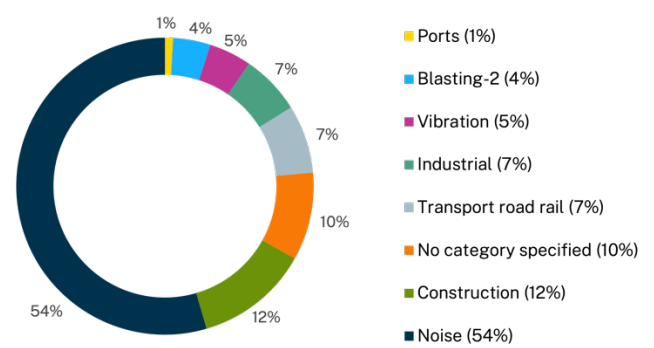
\*Forestry - system migration failed to allocate correctly. Data capture under assessment to reinstate.

## Breakdown of 2023–24 Environment Line cases

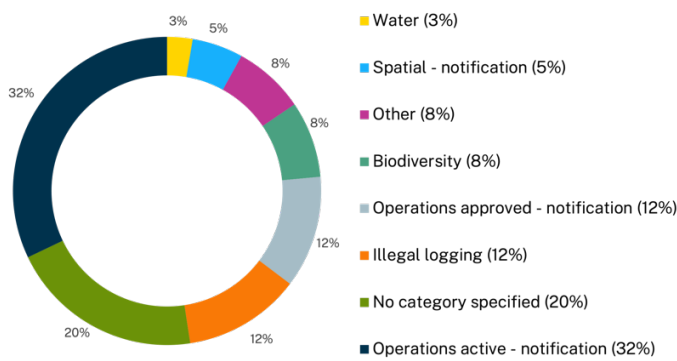
### Water incidents



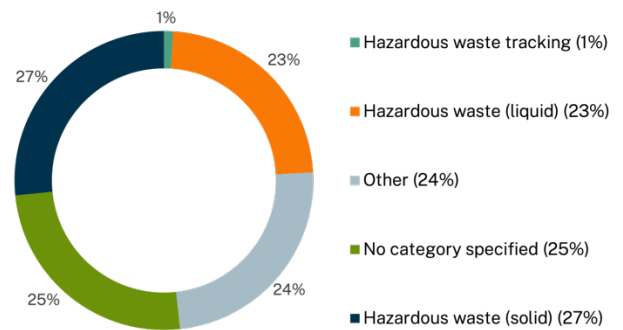
### Noise and vibration incidents



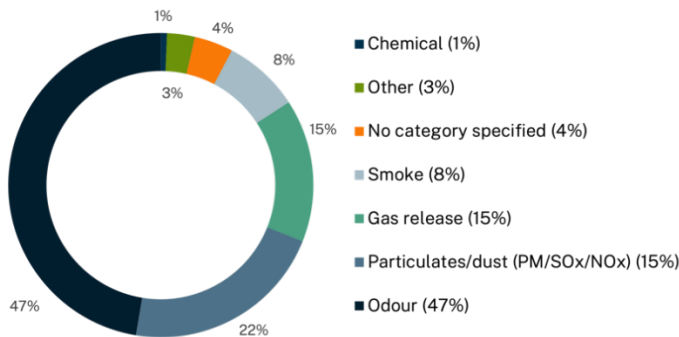
### Forestry incidents



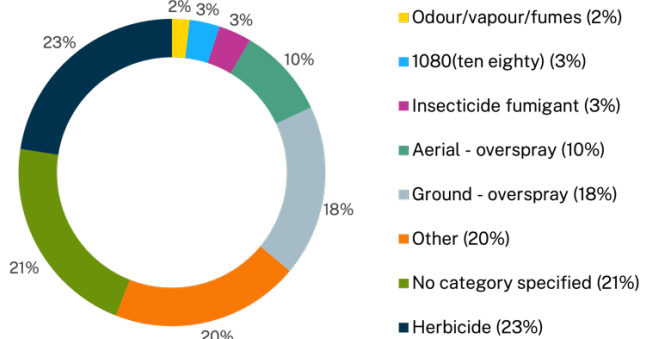
### Hazardous materials



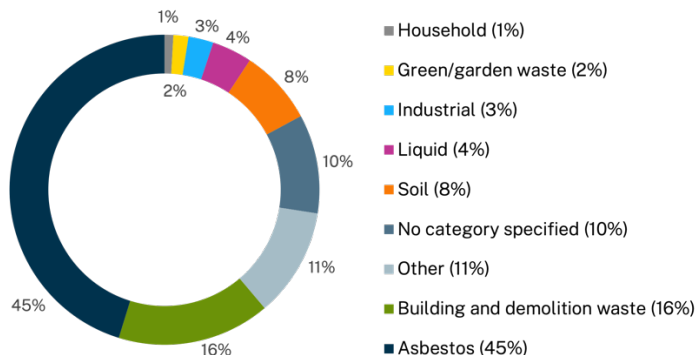
### Air incidents



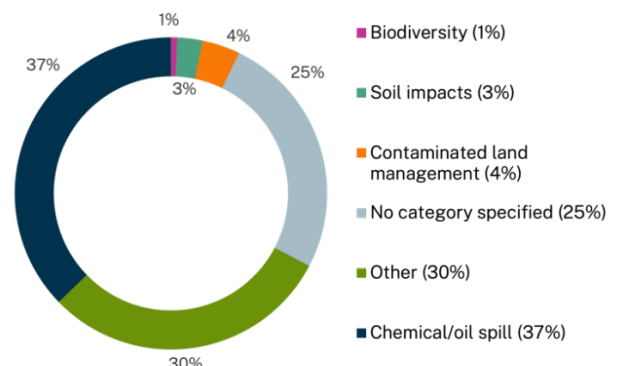
### Pesticides incidents



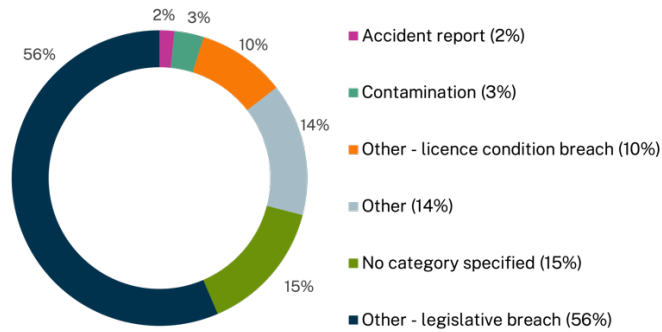
### Illegal waste dumping incidents



### Land incidents



## Radiation incidents



**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 subtype.

## Penalty notices

In 2023–24, the EPA issued 2488 penalty notices for environmental offences. Other State and local Government agencies issued 3259 penalty notices. The total value of all penalty notices was \$8,497,926.

Infringement type	EPA		Local Government		Other NSW Government*	
	No.	Penalty	No.	Penalty	No.	Penalty
POEO Air Pollution: Non-motor vehicle – control of burning			–	–	2	\$400
POEO Air Pollution: Non-motor vehicle – emission of air impurities or odours from premises			2	\$10,000	–	–
POEO Noise: Non-motor vehicle			39	\$11,700	71	\$21,750
POEO Littering: Aggravated litter – motor vehicle			124	\$61,650	18	\$8,100
POEO Littering: Aggravated litter – non-motor vehicle			3	\$1,350	1	\$450
POEO Littering: Motor vehicle	2420	\$832,636	342	\$118,750	48	\$14,250
POEO Littering: Non-motor vehicle			1352	\$247,080	78	\$15,760
POEO Land Pollution and Waste			505	\$1,762,900	1	\$2,500
POEO Land Pollution and Waste: Asbestos/hazardous	2	\$16,500	8	\$50,500	–	–
POEO Water: All offences	8	\$112,500	396	\$3,713,000	3	\$30,000
Other offences, e.g., contravene licence conditions	31	\$381,600	265	\$947,950	–	–
Dangerous goods: All offences	4	\$3,200	–	–	1	\$2,000
Pesticides: All offences	6	\$3,500	–	–	–	–
Forestry - Corporation	4	\$60,000				
Forestry - individual	2	\$10,000				
Waste: All offences	11	\$57,000	–	–	–	–
<b>Total</b>	<b>2488</b>	<b>\$1,477,836</b>	<b>3036</b>	<b>\$6,924,880</b>	<b>223</b>	<b>\$95,210</b>

Data source: EPA & Revenue NSW.

Applicable Legislation: *Protection of the Environment Operations Act 1997 (POEO)*, *Forestry Act 2012*, *Local Land Services Act 2013*, *Pesticides Act 1999*, *Waste Avoidance and Resource Recovery Act 2001* and *Dangerous Goods (Road and Rail Transport) Act 2008*.

\*'Other NSW Government' includes all non-EPA environment-related organisations such as National Parks & Wildlife Service, Botanic Gardens, and Parklands trusts.

## Risk-based licensing

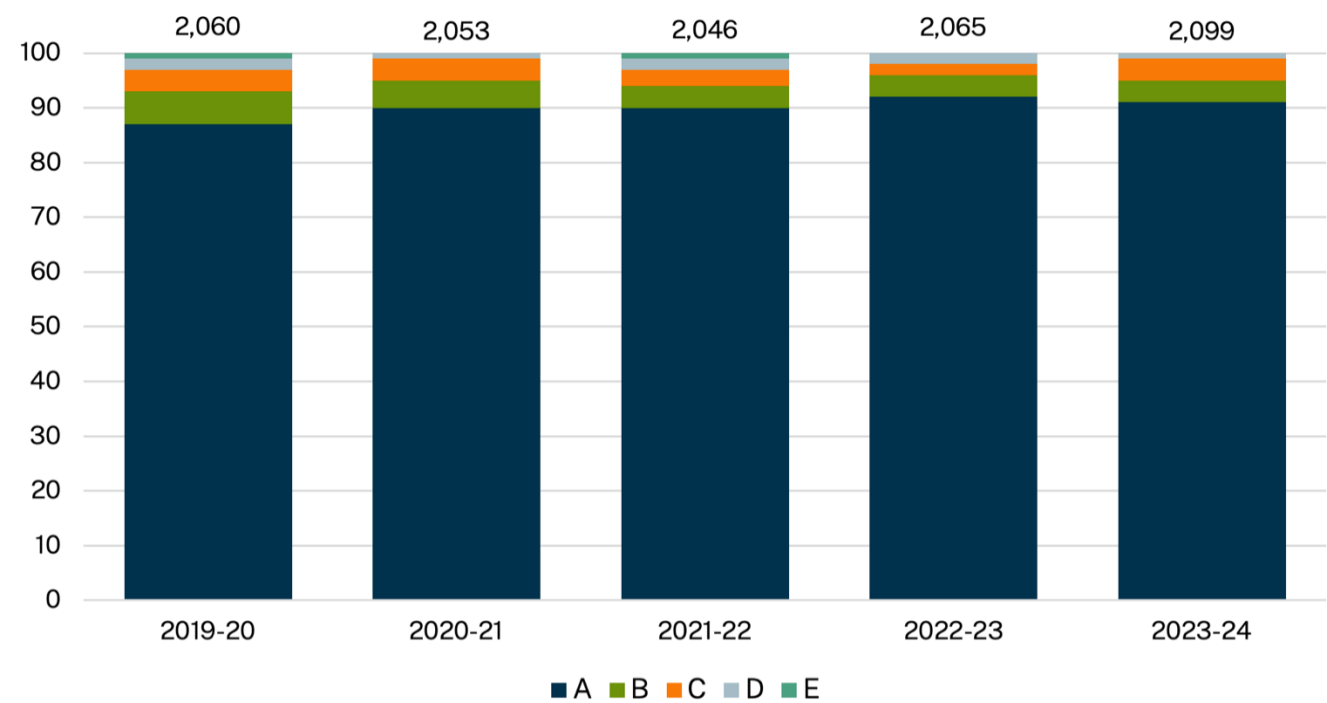
Risk-based licensing results for the past four years show an improving trend in licensed premises reaching category A (best performance).

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 carried out 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 as shown below**



## Prosecutions

This year the EPA had a prosecution success rate of 97% (excluding littering) and the courts imposed \$3,642,712 in fines and other financial penalties against defendants. The successful prosecutions were for a range of environmental offences including water pollution, land pollution, breaches of environment protection licences, illegal waste disposal and storage, causing asbestos to be reused or recycled, providing false and misleading information, failing to comply with clean-up notices and offensive odour from scheduled premises. Further details on prosecutions can be found in the EPA’s annual report.



# Part 4a. Report on progress of previous Board recommendations

The Board makes annual recommendations to help improve the performance of the EPA and the industries it regulates. At the end of 2022–23, the Board made five recommendations to the EPA for 2023–24, two to the Minister, and two for industry.

## 2022–23 recommendations for the EPA

Recommendation	Response
<b>Make better use of data and available technology (including drones) to address regulatory priorities and respond to pollution complaints.</b>	<p>The EPA has continued to build its new CORE platform to consolidate regulatory processes and services with several releases successfully completed this year.</p> <p>The EPA bought a fleet of drones to help carry out regulatory work including complaint investigation.</p> <p>A Board subcommittee focusing on intelligence, data and analytics has been established which will help inform future data and intelligence needs for the EPA.</p> <p>The EPA uses horizon scanning and insights from multiple data sources in developing its Targeted Compliance Program for the 2024–25 financial year.</p>
<b>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.</b>	<p>In 2022–23 the Aboriginal Lands Flood Recovery Program was established to support managers of Aboriginal land to manage remaining waste and contamination issues following the 2022 floods. The program is being delivered in partnership with NSW Public Works. The Aboriginal Lands Bushfire Recovery Program, delivered in 2020–2023, and evaluated in 2023–24 provided recovery support to community.</p>
<b>Explore opportunities for further use of protection of the environment policies to address environmental issues of regional and industry-wide significance.</b>	<p>The EPA is continuously considering this in all work programs. In 2023–24 the EPA prepared a draft Sustainable Construction protection of the environment policy.</p>
<b>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 for environmental restoration and deter environmental crime and non-compliance with legislation.</b>	<p>Legislation reforms were successfully introduced. The <i>Environment Protection Legislation Amendment (Stronger Regulation and Penalties) Act 2024</i> started on 3 April 2024. The Act strengthened and introduced regulatory tools and increased penalties under the <i>Protection of the Environment Operations Act 1997</i> and other EPA-administered legislation.</p> <p>Further reforms on regulatory tools and related matters are being considered as part of a Stage 2 legislative reform package, planning is underway.</p>
<b>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.</b>	<p>The 2024 State of the Environment report will include mapping of its current reporting against the sustainable development goals. A wider review of all indicators and data against best practice global reporting frameworks, including the sustainable development goals, is being planned for the period between the 2024 and 2027 reports.</p>

## 2022–23 recommendations for the Minister

Recommendation	Response
<b>Seek whole of NSW Government consensus and support for an integrated circular economy and waste infrastructure plan and implementation pathway.</b>	<p>The EPA prepared a submission for whole of government consideration on proposals to address NSW’s urgent waste needs and to enable a safe circular economy.</p> <p>The EPA has commissioned an assessment of residual waste infrastructure needs across the state. This includes transfer infrastructure required, food organics and garden organics waste transfer and processing infrastructure across the state and a review of the planning system to identify perceived barriers in engaging with the planning system.</p> <p>EPA has convened an Interagency working group to begin to socialise the findings of these analyses across Government and to collaboratively design potential solutions, as part of the development of a NSW waste infrastructure plan.</p>
<b>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.</b>	<p>The EPA has established an Intergovernmental coordination team to make the most of opportunities for collaboration between jurisdictions. The EPA provided key policy support for government on the <i>Environmental Legislation Amendment (Hazardous Chemicals) Act 2024</i>. This implements the national harmonisation for environmental risk management of industrial chemicals in NSW.</p> <p>The EPA continues to play a key role as a policy lead and support for the harmonisation of policies and standards at a national level and is an active participant and thought leader through key intergovernmental forums such as HEPA, Environment Ministers Meetings and various government and parliamentary inquiries and processes.</p>

## 2022–23 recommendations for industry

Recommendation	Response
<b>Improve resilience planning by anticipating fire, flood and other climate-induced events beyond previously experienced norms and implement works and strategies to address risks.</b>	<p>The EPA has dedicated teams working to prepare responses to impacts of natural disasters and minimise impacts on the community</p>
<b>Consult closely with Aboriginal knowledge holders and local communities to better understand the risks and impacts of industry operations at a local level.</b>	<p>The EPA continues to consult closely with Aboriginal knowledge holders and local communities on a range of environmental issues, after establishing the APKG. The group will advise the EPA on culturally responsive and best-practice approaches and nurture trustworthy and mutually beneficial relationships with Aboriginal people and communities, influencing the EPA’s operations and industry.</p>

## Part 4b. New recommendations from the Board

## **New recommendations for the EPA**

- Conduct an assessment of regulatory maturity once every two years, including benchmarking against other comparable organisations, using a formal tool and/or methodology to identify key areas of success and areas for improvement.
- Improve data-driven performance monitoring and environmental outcome evaluation ensuring the results are transparent to support industry decision making and public visibility.
- Ensure workforce planning and management includes consideration of the key and emerging skill sets required (e.g. climate science, AI etc), and is sustainable within budget.
- Release a customer service charter and track performance against customer service commitments.

## **New recommendations for the Minister**

- Support the advancement of the work started by the EPA to incorporate global environmental reporting frameworks through the NSW State of the Environment report, in particular the planetary boundaries, UN sustainable development goals and natural capital reporting.

## **New recommendations for industry**

- Contribute to the development of improved data exchanges to support timely decision making and new opportunities to make more timely data safely accessible through the SEED (Sharing and Enabling Environment Data) Portal to drive increased regulatory transparency, research and public engagement.

The Board acknowledges that the recommendations above may take many years to complete.



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