



Government of **Western Australia**
Department of **Environment Regulation**

ANNUAL REPORT

2013–14

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This document has been prepared as a guide and includes the minimum annual reporting requirements of the *Financial Management Act 2006* and Treasurer's instructions.

Further reporting requirements are specified in the Public Sector Commission's *Annual Reporting Framework* available at: www.publicsector.wa.gov.au/.

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Accessibility

This document is available in alternative formats and languages on request to the Department of Environment Regulation.

STATEMENT OF COMPLIANCE

**Honourable Albert Jacob MLA
Minister for Environment; Heritage**

In accordance with section 63 of the *Financial Management Act 2006*, I hereby submit for your information and presentation to Parliament, the Annual Report of the Department of Environment Regulation for the financial year ended 30 June 2014.

The Annual Report has been prepared in accordance with the provisions of section 61 of the *Financial Management Act 2006*.



**Jason Banks
Director General**

22 September 2014

DIRECTOR GENERAL'S FOREWORD

On 1 May 2014, the Department's Corporate Executive implemented a new agency structure to enable a sharper focus on our core business.

I am pleased to present the inaugural Annual Report for the Department of Environment Regulation.

The Department, created on 1 July 2013 with its separation from the Department of Environment and Conservation, is now better positioned to deliver on its core roles and responsibilities of:

- protecting public health;
- minimising environmental impact;
- implementing environmental policy; and
- maximising agency performance.

Significantly, on 1 May 2014, the Department's Corporate Executive implemented a new agency structure to enable a sharper focus on our core business. The new structure enables the Department to:

- deliver regionally through functional areas rather than geographical locations;
- group key regulatory functions by aligning approvals and licensing, and compliance and enforcement;
- support approvals and licensing with key technical services in air, noise and contaminated sites;
- complement compliance and enforcement with pollution response and legal capability;
- consolidate policy and programs across all subject areas; and
- centralise corporate services.

I take this opportunity to thank all staff for their professionalism in making the transition to a new agency and structure, and for remaining committed to getting the job done.



Jason Banks
Director General

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OVERVIEW

EXECUTIVE SUMMARY

The Department of Environment Regulation came into being on 1 July 2013 with the mission to advise on and implement strategies for a healthy environment, for all current and future Western Australians, through two service areas:

- Service 1: Environmental Regulation—performing environmental regulation functions of approvals, compliance and enforcement.
- Service 2: Environmental Sustainability and Climate Change—advising on and implementing the State Government’s environmental policies and programs.

The Department was created as a new agency, following the separation of the former Department of Environment and Conservation (DEC) into two departments. The continuing agency, renamed the Department of Parks and Wildlife (Parks and Wildlife), has had the responsibility of providing bureau services to the Department in the areas of information and communication technology, human resources management, financial management, and recordkeeping.

Key performance indicator outcomes are reported in detail on pages 52–54. The Department publishes quarterly summaries on its website of its targets, performance, activities and outcomes in works approvals and licensing, compliance inspections, native vegetation clearing permit approvals, contaminated sites, and environmental enforcement. These summaries are available at www.der.wa.gov.au/about-us/regulatory-performance-and-reporting.

A structural realignment implemented from 1 May 2014 has enabled the Department to focus more sharply on its core business, through clarity of roles between licensing/approvals and compliance/enforcement, consolidated corporate services throughout the Department, and better coordination of functions across regional and administrative boundaries.

The following mandatory reporting areas relied on bureau services from the continuing agency Parks and Wildlife in 2013–14:

- Disability Access and Inclusion Plan
- Recordkeeping Plan
- Substantive equality
- Occupational safety and health and injury management.

PERFORMANCE HIGHLIGHTS

The Environmental Offsets Register, launched in August 2013, provides a public database of environmental offsets designed to counterbalance the impact of development on environmental and biodiversity values.

The Department made a number of significant achievements in its first year of operation.

- **Environmental Offsets Register:** launched by Environment Minister Albert Jacob in August 2013, the register provides a public database of environmental offsets designed to counterbalance the impact of development on environmental and biodiversity values. It is a consolidated record of environmental offsets, incorporating ministerial conditions imposed following assessment by the Environmental Protection Authority and conditions of clearing permits.

The register includes information on the spatial location of the offset; the type of offset and values being offset; the compensatory values of the offset; milestones and time frames for implementation.

The register is strongly supported across government, industry and environment groups.

- **Compliance program inspection targets exceeded:** the Department carries out a planned annual industry compliance program, setting targets to inspect and assess prescribed premises, controlled waste operations, industry sector (packaged fertiliser, asbestos management in construction/demolition, bulk port facilities, cattle feedlots and regional industrial areas) and risks presented by industries operating outside the *Environmental Protection Act 1986* (EP Act).

In 2013–14, the Department exceeded its target by 11 per cent, carrying out a total of 840 inspections, against the target of 758.

- **REFIRE licence reform progress:** the improved licensing format developed under the Department's Re-Engineering for Industry Regulation and Environment (REFIRE) program was applied to all works approvals and licences granted during the year, and 34 per cent of existing licences were converted to the new format.

Ninety-four per cent of approvals were completed within the 60-day target time frame.

- **Amendments to *Environmental Protection (Clearing of Native Vegetation) Regulations 2004***

amendments to these regulations were gazetted in December 2013. The amendments increase the period to maintain previously lawfully cleared areas for pasture, cultivation or forestry from 10 to 20 years, and increase the total area allowed per financial year per property from one hectare to five hectares.

- **Amendments to *Environmental Protection (Noise) Regulations 1997***

also gazetted in December 2013, these amendments brought the noise regulations into line with national standards and significantly improved their workability.

- **Completion of energy efficient swimming pools project:**

in May 2014 Environment Minister Albert Jacob marked the successful completion of the City of Kalgoorlie-Boulder's Low Emissions Energy Development (LEED) funded project by unveiling a screen that provides a live feed of the cost and energy savings of using combined solar energy and ground source heat pumps to heat two swimming pools in Kalgoorlie. An estimated 8,400 tonnes of carbon dioxide is expected to be saved over the life of the project, which is equivalent to growing 50,000 Australian native trees.

The State Government provided \$533,790 for the project through the LEED fund, which supports the development of new, low emission technologies.

The City of Kalgoorlie-Boulder's project has resulted in similar technologies being implemented at other WA community pools.

- **Registered training organisation status:** in April 2014 the Department was officially registered as a nationally accredited training organisation. This registration has facilitated the continued development and delivery of a suite of nationally recognised training courses and supporting resources, and is enabling the development of public administration capabilities across the agency.

The Department's scope of registration includes Certificate IV in Government (Statutory Compliance), Certificate IV in Government (Investigation) and Certificate IV in Government, which underpins the Department's Graduate Development Program.

OPERATIONAL STRUCTURE

In 2013–14, the Department delivered services through its two key service areas:
Environmental Regulation
and
Environmental Sustainability and Climate Change.

In 2013–14, the Department delivered services through its two key service areas:

- **Service Area 1**—Environmental Regulation—regulates emissions and discharges to the environment and the transport of hazardous wastes. Regulates the investigation, classification and management of contaminated sites.
- **Service Area 2**—Environmental Sustainability and Climate Change—develops and implements policies and strategies that promote environmentally sustainable practices in industry, government and the community, and provides leadership in the development and implementation of strategies to reduce the impact of climate change for Western Australia.

ENABLING LEGISLATION

On 1 July 2013, the Department of Environment Regulation was established under *the Public Sector Management Act 1994*.

RESPONSIBLE MINISTER

The Department's responsibility during the reporting period was to the Minister for Environment; Heritage, Hon. Albert Jacob MLA.

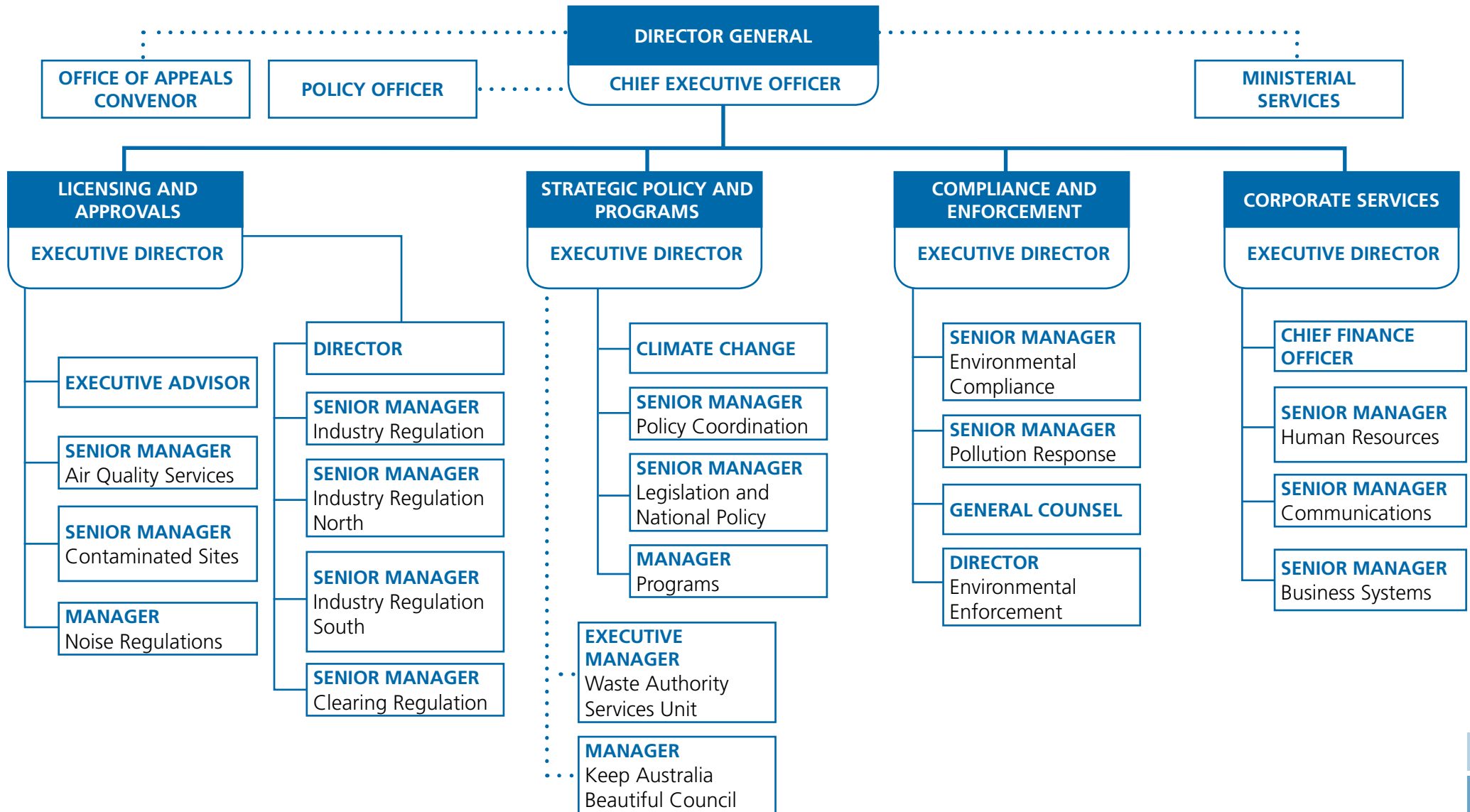
The Minister exercised authority under the *Environmental Protection Act 1986*, the *Contaminated Sites Act 2003*, *Waste Avoidance and Resource Recovery Act 2007* and other Department-administered legislation.

ORGANISATIONAL STRUCTURE

Purpose

To advise on and implement strategies for a healthy environment for all Western Australians.

Organisational chart – as at 30 June 2014



Functions

Licensing and Approvals

- Efficiently grant environmental regulatory instruments which are effective and enforceable, within target time frames.
- Primary responsibility for oversight of environmental management of activities for which environmental regulatory instruments have been granted.
- Primary responsibility for management of contentious issues associated with activities for which environmental regulatory instruments have been granted.
- Regulation of contaminated sites.

Strategic Policy and Programs

- Efficiently and effectively deliver the Government's policy agenda and programs within agreed time frames.
- Primary responsibility for all legislative amendments to Acts and subsidiary legislation administered by the Department.
- Primary responsibility for delivery of all Department programs.
- Provision of efficient and effective support services to the Waste Authority and the Keep Australia Beautiful Council.

Compliance and Enforcement

- Efficiently deliver integrated environmental compliance, enforcement, pollution response services which are effective and timely.
- Primary responsibility for environmental compliance programs across the state.
- Primary responsibility for environmental enforcement activities across the state.
- Provision of efficient, quality and timely legal services across the Department.

Corporate Services

- Efficiently and effectively deliver corporate services to the Department.
- Primary responsibility for direct delivery and management of bureau corporate services.

LEGISLATION ADMINISTERED AT 30 JUNE 2014

Copies of the legislation are available at www.der.wa.gov.au/about-us/legislation. Legislation can also be accessed at www.slp.wa.gov.au/Index.html.

Acts

Carbon Rights Act 2003

Contaminated Sites Act 2003

Environmental Protection Act 1986

Environmental Protection (Landfill) Levy Act 1998

Litter Act 1979

National Environment Protection Council (Western Australia) Act 1996

Waste Avoidance and Resource Recovery Act 2007

Waste Avoidance and Resource Recovery Levy Act 2007

Regulations

Clean Air (Determination of Air Impurities in Gases Discharged to the Atmosphere) Regulations 1983

Contaminated Sites Regulations 2006

Environmental Protection Regulations 1987

Environmental Protection (Abattoirs) Regulations 2001

Environmental Protection (Abrasive Blasting) Regulations 1998

Environmental Protection (Clearing of Native Vegetation) Regulations 2004

Environmental Protection (Concrete Batching and Cement Product Manufacturing) Regulations 1998

Environmental Protection (Controlled Waste) Regulations 2004

Environmental Protection (Domestic Solid Fuel Burning Appliances and Firewood Supply) Regulations 1998

Environmental Protection (Fibre Reinforced Plastics) Regulations 1998

Environmental Protection (Goldfields Residential Areas) (Sulfur Dioxide) Regulations 2003

Environmental Protection (Kwinana) (Atmospheric Wastes) Regulations 1992

Environmental Protection (Metal Coating) Regulations 2001

Environmental Protection (NEPM-NPI) Regulations 1998

Environmental Protection (NEPM-UPM) Regulations 2013

Environmental Protection (Noise) Regulations 1997

Environmental Protection (Packaged Fertiliser) Regulations 2010

Environmental Protection (Petrol) Regulations 1999

Environmental Protection (Recovery of Vapours from the Transfer of Organic Liquids) Regulations 1995

Environmental Protection (Rural Landfill) Regulations 2002

Environmental Protection (Unauthorised Discharges) Regulations 2004

Litter Regulations 1981

Noise Abatement (Noise Labelling of Equipment) Regulations (No. 2) 1985

Waste Avoidance and Resource Recovery Regulations 2008

Waste Avoidance and Resource Recovery Levy Regulations 2008

Environmental Protection Policies

Environmental Protection (Swan Coastal Plain Lakes) Policy 1992

Environmental Protection (Gnangara Mound Crown Land) Policy 1992

Environmental Protection (Peel Inlet–Harvey Estuary) Policy 1992

Environmental Protection (South West Agricultural Zone Wetlands) Policy 1998

Environmental Protection (Kwinana) (Atmospheric Wastes) Policy 1999

Environmental Protection (Goldfields Residential Areas) (Sulphur Dioxide) Policy 2003

Environmental Protection (Western Swamp Tortoise Habitat) Policy 2011

Changes made in 2013–14 to legislation administered

A number of changes to legislation administered by the Department occurred during the reporting period. These include:

- Amendments to the *Environmental Protection Regulations 1987* through the *Environmental Protection Amendment Regulations (No. 3) 2013* to increase fees were gazetted on 18 June 2013—commencing on 1 July 2013.
- The *Environmental Protection Amendment Regulations 2013* amend the *Environmental Protection Regulations 1987* to correct an obsolete reference to a repealed provision of the Act, correct punctuation and consequentially amend the Act due to the commencement of the *Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012* s 14. They were gazetted on 20 August 2013.
- New regulations to enforce the National Environment Protection Measure (NEPM-UPM) were gazetted on 24 September 2013. The regulations accommodate minor amendments necessary to give effect to this NEPM.
- The *Environmental Protection Amendment Regulations (No. 2) 2013* amend Schedule 6 of the *Environmental Protection Regulations 1987* relating to offences in the *Environmental Protection (NEPM-UPM) Regulations 2013*. They were gazetted on 24 September 2013.
- The *Environmental Protection (Controlled Waste) Amendment Regulations (No. 2) 2013* were gazetted on 14 November 2013. They amend the *Environmental Protection (Controlled Waste) Regulations 2004* by consequentially amending the definition of ‘disposal site’ following the commencement of the *Water Services Act 2012* Part 2. In addition, the commencement of this Act introduced minor consequential amendments to Schedule 1 clause 1 to the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* through the *Environmental Protection (Clearing of Native Vegetation) Amendment Regulations 2013*.
- The *Environmental Protection (Clearing of Native Vegetation) Amendment Regulations (No. 2) 2013* were gazetted on 3 December 2013, and amend regulation 5(1) of the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* to increase the period to maintain previously lawfully cleared areas for pasture, cultivation or forestry from 10 to 20 years (regulation 5, item 14) and to increase the total area allowed per financial year, per property, for prescribed limited clearing from one hectare to five hectares.
- Amendments to the *Environmental Protection (Noise) Regulations 1997* were gazetted on 5 December 2013. These significant changes improve the Regulations’ effectiveness and workability, and bring them into line with national standards. Further minor amendments to the *Environmental Protection (Noise) Amendment Regulations 2014* were gazetted on 18 May 2014.
- The *Waste Avoidance and Resource Recovery Amendment (Validation) Bill 2014* was passed by the Legislative Assembly on 11 June 2014 and by the Legislative Council on 27 June 2014. It amends the *Waste Avoidance and Resource Recovery Act 2007* (WARR Act) to ratify the WARR Levy Regulations and amendments to those regulations; and to provide that those regulations are taken to be validly made, and that the rights and liabilities of all persons shall be the same as if the WARR Levy Regulations had been validly made.

OTHER KEY LEGISLATION RELEVANT TO THE DEPARTMENT

The Department is responsible for the implementation of seven National Environment Protection Measures (NEPMs) established under the *National Environment Protection Council Act 1994* (Cwth).

The Department reports annually to the National Environment Protection Council on the implementation of the following NEPMs:

- Air Toxics
- Ambient Air Quality
- Assessment of Site Contamination
- Diesel Vehicle Emissions
- Movement of Controlled Waste
- National Pollutant Inventory
- Used Packaging Materials (UPM).

In the performance of its functions, the Department also complies with the following relevant written laws.

Auditor General Act 2006

Disability Services Act 1993

Equal Opportunity Act 1984

Financial Management Act 2006

Freedom of Information Act 1992

Industrial Relations Act 1979

Minimum Conditions of Employment Act 1993

Occupational Safety and Health Act 1984

Public Sector Management Act 1994

Salaries and Allowances Act 1975

State Records Act 2000

State Supply Commission Act 1991

NOTICES, ORDERS, APPROVALS AND REFUSALS TO APPROVE

Environmental Notices, Orders, Exemption Orders, Approvals and Refusals to Approve Draft Policy are made under legislation by the Minister for Environment and are available in the Western Australian *Government Gazette*.

During the 2013–14 reporting year, the Minister approved the following under the *Environmental Protection (Noise) Regulations 1997* to exceed or vary noise emission standards:

- *Environmental Protection (Wagerup Alumina Refinery Noise Emissions) Amendment Approval 2013*, gazetted 10 December 2013; and
- *Environmental Protection (Western Power Electrical Distribution Transformer Noise Emissions) Approval 2014*, gazetted 6 May 2014.

Copies of the legislation administered by the Department are available through the Department's website at www.der.wa.gov.au/about-us/legislation.

Copies of Environmental Notices, Orders, Exemption Orders, Approvals and Refusals to Approve Draft Policy are available on the State Law Publisher website at www.slp.wa.gov.au/gazette/gazette.nsf.

MODIFIED PENALTIES

Under s 99E of the EP Act, the Department is required to publish notice of payment of any modified penalties during the financial year in its Annual Report.

There were no modified penalties issued or paid in 2013–14.

PERFORMANCE MANAGEMENT FRAMEWORK

OUTCOME BASED MANAGEMENT FRAMEWORK

The Department directly contributes to the State Government strategic goals, specifically:

- ensuring that economic activity is managed in a socially and environmentally responsible manner for the long-term benefit of the state.

The following table illustrates the relationship between agency-level desired outcomes and the Government’s goal. The key efficiency indicators monitor the relationship between the service delivered and the resources used to produce the service.

Government Goal	Service and Performance Indicators
<p>Social and environmental responsibility: Ensuring that economic activity is managed in a socially and environmentally responsible manner for the long-term benefit of the State.</p>	<p>Service Area 1—Environmental Regulation</p> <p><i>Key effectiveness indicators:</i></p> <ul style="list-style-type: none"> • Number of exceedences of approved environment criteria by regulated activities • Number of National Environment Protection Measure (NEPM) exceedences per annum of criteria pollutants <p><i>Key efficiency indicators:</i></p> <ul style="list-style-type: none"> • KPI 1.1 Average cost per air monitoring station • KPI 1.2 Average cost per industry licence • KPI 1.3 Average cost per contaminated site assessment • KPI 1.4 Average cost of remediating state sites <p>Service Area 2—Environmental Sustainability and Climate Change</p> <p><i>Key effectiveness indicators:</i></p> <ul style="list-style-type: none"> • Percentage of waste in the metropolitan area diverted from landfill through recycling <p><i>Key efficiency indicators:</i></p> <ul style="list-style-type: none"> • KPI 2.1 Cost of administering Waste Avoidance and Resource Recovery Account as a percentage of total funds • KPI 2.2 Cost of administering Low Emissions Energy Development fund as a percentage of total funds
<p>Desired outcome</p> <p>Emissions and discharges meet acceptable criteria.</p>	
<p>Desired outcome</p> <p>Adoption of environmentally sustainable practices to protect, manage and restore the State’s natural resources.</p>	