



Australian Government

Department of the Environment and Energy

Regulatory Framework



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Acknowledgement of Country

The Department acknowledges the traditional owners of country throughout Australia and their continuing connection to land, sea and community. We pay our respects to them and their cultures and to their elders both past and present.

Document content

The content of this document was co-designed through a process driven by ThinkPlace with participation from industry, advocates and other government representatives.



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Purpose of this framework

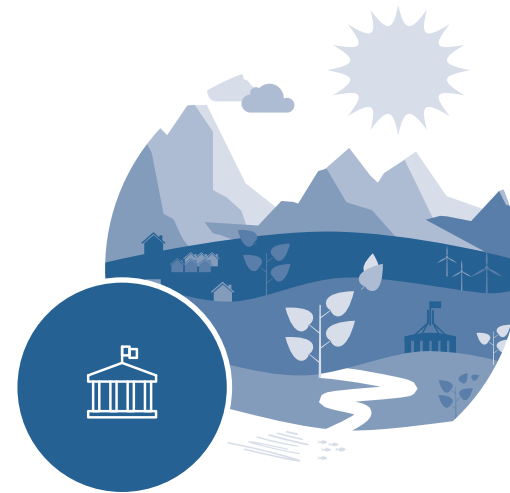
This document outlines the way the Department of the Environment and Energy develops and administers environmental and energy regulation.

The Framework sets out:

- ✓ what is regulated by the Department and our role within all levels of government
- ✓ who is involved in environmental and energy regulation and how they interact
- ✓ our regulatory principles and approach
- ✓ how we will evaluate and improve.

The Department is committed to the delivery of this framework. The framework is forward looking and sets clear goals for the Department in its approach to environmental and energy regulation. Supporting activities give effect to the framework and drive continuous improvement. Fully implementing the framework is expected to take several years, and will require behavioural and operational change both within and outside of the Department.

While this document describes the Department's approach to regulation, our work also includes policy making, program delivery, scientific research, on-ground operations and knowledge sharing at international and domestic levels. Regulation is one of the tools the Department uses to achieve environment and energy outcomes.



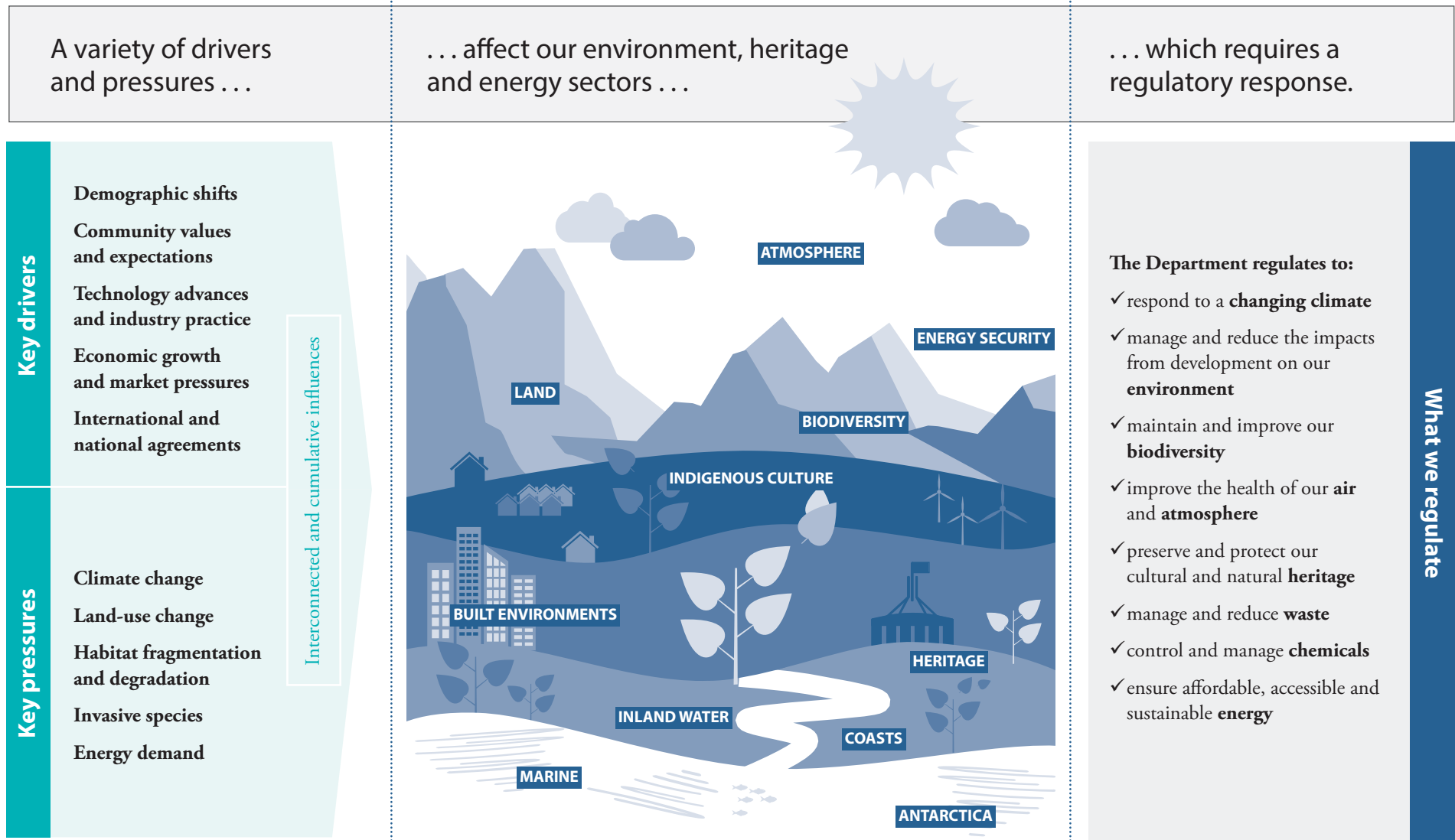
The Department strives to be an effective, responsive and trusted regulator.

Section 1











The system in which we regulate



Regulation within a dynamic system



Stakeholders in the system

WHO	Government and the Department <p>Government sets the law, strategic decisions, budgets, and national agenda.</p> <p>The Department administers the law and advises the Government.</p> 	Partners and Co-regulators <p>Includes other Commonwealth agencies, state, territory and local governments, international and other organisations. They operate as partners or as parallel regulators.</p> 	Regulated entities <p>Those with current or potential regulatory obligations or who may impact the environment or energy sectors.</p> 	Influencers <p>They aim to shape the regulatory system and outcomes to meet the needs of those they represent. They may advocate on an issue or voice more general concerns.</p> 	Community <p>The community lives in the environment and uses energy everyday. Their needs and values help shape the regulatory system.</p> 
WHAT THEY WANT	 <p>We seek to deliver solutions to ensure a thriving environment, community and economy.</p>	 <p>They seek clarity of roles and responsibilities, and access to information.</p>	 <p>They seek fairness in regulation and certainty of obligations so they can get on with business.</p>	 <p>They seek to ensure the regulatory system operates effectively, transparently and accountably.</p>	 <p>They seek confidence, transparency and accountability in laws and regulation, and clear opportunities to voice concerns.</p>
HOW THIS FRAMEWORK HELPS THEM	<ul style="list-style-type: none"> • Sets the authorising environment. • Explains our responsibilities and the system we operate in. • Explains our approach and posture. • Enables us to ensure our approach is consistent. 	<ul style="list-style-type: none"> • Defines respective roles. • Explains shared responsibilities. • Identifies ways to interact with the Department. 	<ul style="list-style-type: none"> • Explains the Department's regulatory approach. • Explains the regulatory system and when and how to interact with it. • Enables them to hold the Department to account. 	<ul style="list-style-type: none"> • Explains rules and principles for engagement. • Explains the regulatory system and when and how to interact with it. • Describes the regulator's posture. • Identifies collaboration opportunities. • Enables them to hold the Department to account. 	<ul style="list-style-type: none"> • Explains the regulatory approach. • Explains the regulatory system and when and how to interact with it. • Enables them to hold the Department to account.

Case Study

Australia's response to migratory shorebirds

Migratory shorebirds are important globally. Australia is committed to protecting migratory shorebirds with a range of other international stakeholders. We apply a variety of non-regulatory and regulatory responses. Our regulatory role is one piece of this puzzle.

ISSUE

Migratory shorebirds fly between the northern and southern hemisphere. They come to Australia to escape the harsh northern winter and to eat and build reserves so they can make the flight north to breed in the northern summer.

OBJECTIVE

To protect and conserve the feeding and roosting habitat and minimise threats to the birds.

Government and the Department

Work with foreign governments to create, endorse and implement treaties. Fund management on state and private land. Fund and conduct research. Monitor population and habitat.

Partners and Co-Regulators

Input into international treaty negotiations. Declare and manage protected areas. Conduct research and communicate findings.

Regulated Entities

Refer development to the regulator for assessment and approval decisions. Undertake development based on approval conditions.

Influencers

Input into international treaty negotiations. Work with the other stakeholders to support and encourage implementation of habitat plans. Communicate regulatory obligations.

Community

Act responsibly in protected areas. Assist with management and protection. Participate in community consultation. Conduct community based monitoring and research.

OUR REGULATORY ROLE

The Department responds by:

- ✓ managing Commonwealth land to protect habitat
- ✓ minimising the impacts of development on migratory birds and their habitats
- ✓ identifying and protecting migratory species and important habitats
- ✓ preparing and supporting management plans
- ✓ providing guidance on identifying significant impacts on migratory birds and their habitat.

Section 2

Our outcome, role and principles



The outcome of regulation

Regulation is effective when directed towards a clear shared outcome.



Our role in regulation

The Department of the Environment and Energy is just one part of a governance system that is working towards national outcomes for Australia's environment, society and economy. The Department has a range of tools to influence and plays several roles.



Our regulatory principles

The principles guide and direct the decisions and behaviours of those in the regulatory system.



For the Department this means:

- ✓ regulatory responses will be consistent, efficient and proportionate to the risk
- ✓ decisions and actions will be informed by evidence
- ✓ decisions will be fair, reasonable, respectful and reliable
- ✓ we will be transparent and accountable for our decisions and actions
- ✓ we will monitor, review and report on our effectiveness
- ✓ we will continue to improve the way we regulate
- ✓ we will engage to listen, learn and respond.



The regulatory framework will work best when all stakeholders:

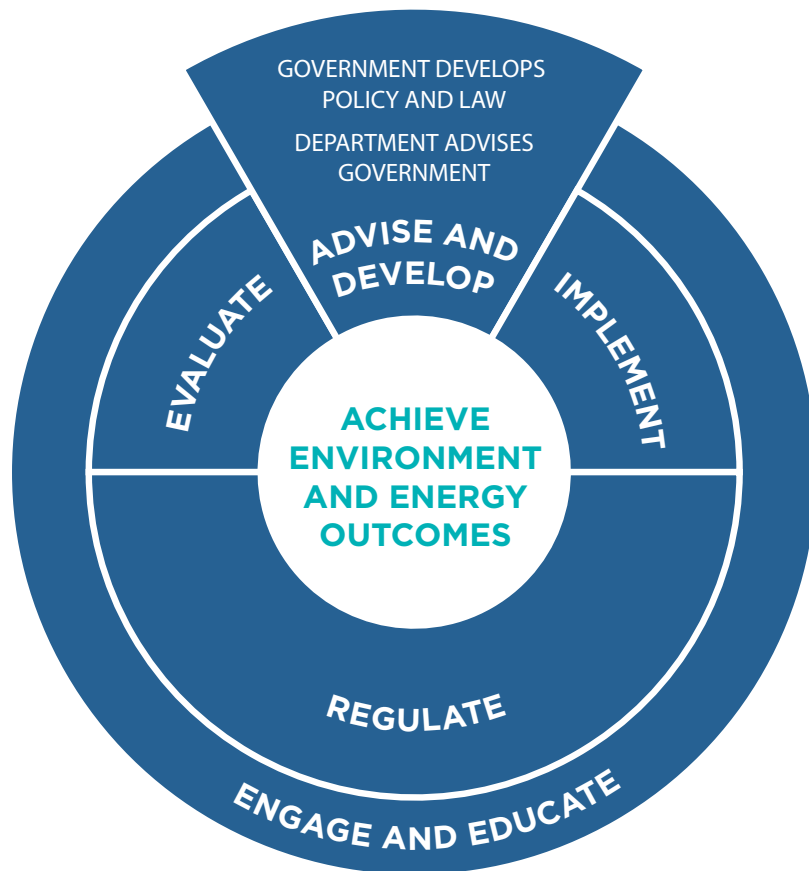
- ✓ work together towards the shared outcome
- ✓ consider the risk and respond accordingly
- ✓ look for better ways to do things
- ✓ are clear about expectations and processes
- ✓ engage honestly, clearly and accurately.

Section 3

Our approach to regulation



Our regulatory model



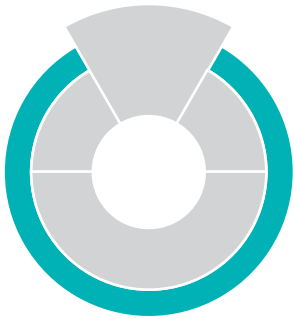
We will **engage** to listen, learn and respond.
We **educate**, inform and disclose.

We **advise** the Government to **develop** regulatory approaches to achieve the intended outcome.

We **implement** the Government's policy and law into an effective and efficient regulatory system.

We will be a consistent, responsive and trusted **regulator** that acts appropriately and proportionately.

We value rigorous and transparent **evaluation** to inform continuous improvement.



How we engage and educate

We will engage to listen, learn and respond.
We educate, inform and disclose.

This will achieve
a regulatory
system that:

- ✓ is transparent
- ✓ has regulations that are effective, efficient and proportionate
- ✓ avoids perverse outcomes
- ✓ harnesses the value that our stakeholders can add
- ✓ builds stakeholder understanding of the purpose and outcome of regulation and expectations and obligations.

How we will achieve this



- Understand community and stakeholder needs and expectations and build their capacity to engage.
- Identify and address risks.
- Be open about what we do.
- Provide the opportunity for collaboration and co-operation.
- Build relationships that are proportionate to needs.

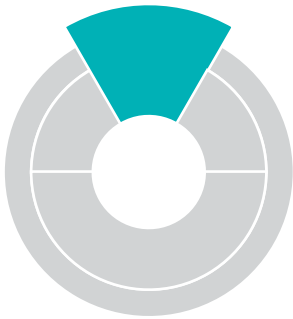


- Choose the right engagement tools for the job.
- Ensure our staff have the capability and support they need.
- Make things plain and accessible to meet peoples' needs.



“Closing the loop is important, so people have closure.”

“Lots of people spend lots of time giving feedback and then when nothing changes, people are annoyed. That doesn't support the policy outcome. You need to explain it to them.” – Proponent



How we develop regulatory solutions

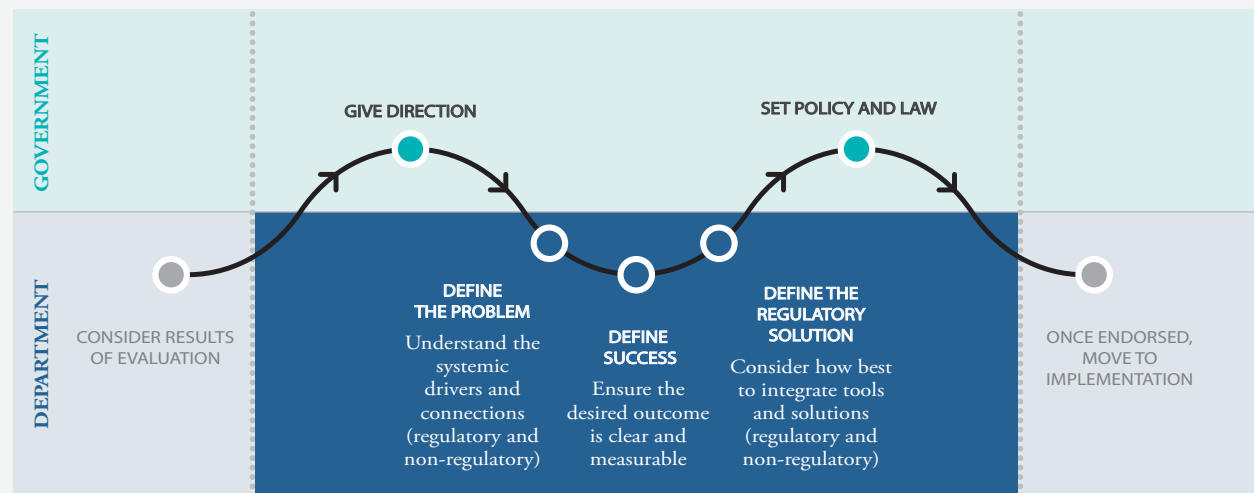
We advise government to develop regulatory approaches to achieve the intended outcome.

This will achieve a regulatory system that:

- ✓ helps deliver the environmental, energy or heritage outcome
- ✓ develops regulations that are as easy as possible to comply with and efficient to enforce
- ✓ takes a risk based approach to developing and implementing regulatory responses.

How we will achieve this

- Consider both regulatory and non regulatory solutions
- Engage and work with our stakeholders
- Understand industry and community needs and expectations
- Identify and address risks proportionate to the outcome
- Be open to new and different information and ideas
- Generate and assess multiple options
- Share information and analysis.





How we implement regulations

We implement Government's policy and law into an effective and efficient regulatory system.

This will achieve a regulatory system that:

- ✓ has the right capability - people, tools and processes
- ✓ considers the needs of all parties - the regulated and the regulators
- ✓ is efficient to comply with and administer.

How we will achieve this



- Engage with all relevant stakeholders through the implementation stage.
- Design and test all parts of the solution with stakeholders to ensure that the system works.
- Communicate changes and understand how long transition will take.
- Ensure that stakeholders are provided sufficient time to make the transition.



- Develop clear guidance and education materials for all stakeholders.
- Build staff capability to administer the regulations effectively, by ensuring that they have the right tools to do their job.
- Develop a compliance approach that considers risk to inform proportionate responses.
- Develop systems that enable efficient and effective processes.



- Identifying key performance indicators to measure performance against policy and legislative intent.
- Establish systems to record and measure to inform ongoing reporting and evaluation.



How we regulate

We will be a consistent, responsive and trusted regulator that acts appropriately and proportionately.

This will achieve a regulatory system that:

- ✓ minimises the regulatory burden and targets highest risks of harm, behaviour and attitude
- ✓ encourages better behaviour and promotes leading practice
- ✓ establishes trust with the regulated and non-regulated community
- ✓ assists businesses and individuals to understand and comply with the law.

Our obligations – The Department

Educate
regulated entities about their obligations and purpose of regulation

Assess
applications

Approve
and set conditions using risk based approaches

Support
approval holders with clear guidance

Deter
non compliance by designing easy to follow processes

Detect
compliance risks through ongoing monitoring and evaluation

Respond
using a range of actions proportionate to the risk

Regulated entities' obligations

Understand
obligations and why regulations are there*

Provide
the right information when seeking approvals*

Receive
approval and implement conditions*

Seek
out information to answer questions and reduce uncertainty*

Act
and report in accordance with approval conditions*

Participate
in compliance action*

Change
behaviour if needed*

*as required

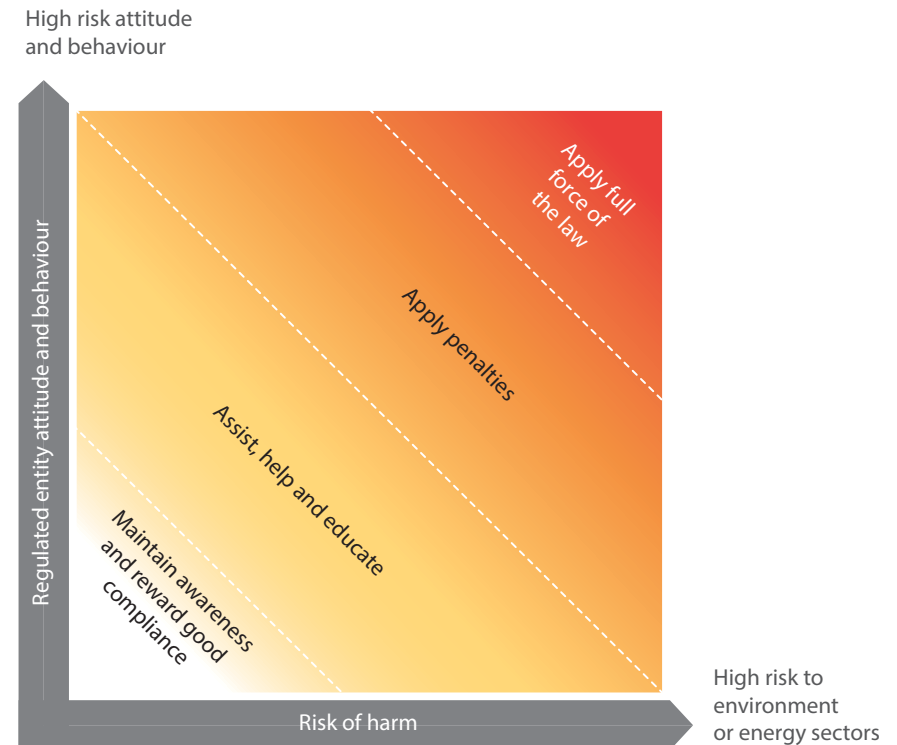


How we regulate and respond proportionately

We will take a risk based approach that recognises positive behaviour and a good track record, and our enforcement effort will be proportionate to risk, severity and attitude.

How we will achieve this

- ✓ We will monitor to identify where the regulations are being followed and where they are not.
- ✓ Our responses will be proportionate to risk severity (harm and attitude/behaviour).
- ✓ We will seek to understand the context of the regulated entity.
- ✓ Serious non-compliance will result in strong enforcement action.
- ✓ We will educate and engage with people to help them understand their obligations.
- ✓ We will look at ways to minimise the regulatory burden.





How we evaluate and improve

We value rigorous and open evaluation to inform continuous improvement.

This will achieve a regulatory system that:

- ✓ continually gets better at what it does
- ✓ achieves its outcomes
- ✓ is transparent and accountable
- ✓ captures the experiences and insights of our stakeholders.

How we will achieve this



- Design evaluation that is meaningful to our outcome and contributes to reporting.
- Embed monitoring and evaluation upfront.
- Have a planned and transparent evaluation program.



- Value formal and informal evaluation.
- Seek independent, external and internal evaluation.
- Analyse the evaluation and use lessons learned to improve how we do things.



- Ensure evaluation is relevant and timely.
- Measure performance against policy and legislative intent.
- Measure success against the defined outcome.
- Measure efficiency of the regulatory approach across the whole system.

Section 4

Enabling the framework



Enabling this framework

This framework is the Department’s commitment to continually improving our regulatory practice.

To be an effective, responsive and trusted regulator, we recognise that we need regulatory systems that enable us to deliver on our outcomes. Delivering this framework will take time and require a range of supporting activities and regular evaluation of our performance. As a maturing regulator we are committed to ensuring that this framework is a contemporary and relevant document and may need to change in time.

