

Terms of Reference – Independent review into the adequacy of existing powers and penalties under the Environmental Protection Act 1994

April 2022

Background

In recent years, environmental impacts from a number of sectors have presented increasingly complex regulatory challenges for the Department, including issues such as persistent nuisance.

For example, in relation to the waste industry, odour issues, illegal dumping (including of tyres) and unlicensed operators, among other issues, remain significant challenges.

Given changes in regulated activities since environmental legislation came into effect in 1994, it is appropriate that a holistic review of the adequacy of the powers, tools and penalties available to the regulator, including by way of comparison with other jurisdictions, be conducted. This review will determine whether the tools available to the regulator are sufficiently contemporary to deal with the challenges of the future and make any recommendations for improvement.

Terms of reference for review

A review will be undertaken into:

1. The adequacy of existing legislative powers for ensuring timely environmental performance through the use of appropriate enforcement tools in Queensland, including by reference to other jurisdictions, and with respect to:
 - a. the suitability of the suite of statutory tools presently available;
 - b. the adequacy of existing powers and tools for ensuring timely environmental outcomes;
 - c. the extent to which the powers and tools are effective in preventing and/or minimising environmental harm, including persistent nuisance;
2. The adequacy of existing legislative powers and penalties for investigating and prosecuting operators and deterring environmental offending, including by reference to other jurisdictions and other Queensland legislation, and with respect to:
 - a. the investigative powers, particularly in relation to the collection of evidence;
 - b. whether there are any special evidentiary challenges in prosecuting particular offences which need to be considered;
 - c. the utility and effectiveness of penalties, including penalty infringement notices;
 - d. the adequacy of existing maximum penalties, particularly as compared with other jurisdictions;
 - e. whether changes to current legislative provisions concerned with legal proceedings, or additional legislated alternatives to prosecution, should also be considered.

For more information about the independent review, visit [Independent review of environmental regulator's powers and penalties | Environment | Department of Environment and Science, Queensland \(des.qld.gov.au\)](https://www.des.qld.gov.au/independent-review-of-environmental-regulator-powers-and-penalties)

