<table>
<thead>
<tr>
<th>Status</th>
<th>FINAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date of approval</td>
<td>3 September, 2015</td>
</tr>
<tr>
<td>Approved by</td>
<td>Secretary</td>
</tr>
<tr>
<td>Responsible Officer</td>
<td>Executive Director, Human Resources and Governance</td>
</tr>
<tr>
<td>Executive Sponsor</td>
<td>Chief Financial and Operating Officer</td>
</tr>
<tr>
<td>Document location</td>
<td>Objective and PECAN</td>
</tr>
<tr>
<td>Review date</td>
<td>3 September, 2017</td>
</tr>
<tr>
<td>Superseded documents</td>
<td><em>Legislative and Regulatory Compliance Policy June 2010</em></td>
</tr>
<tr>
<td></td>
<td><em>Legislative and Regulatory Compliance and Accountability Register June 2010</em></td>
</tr>
</tbody>
</table>
Overview of this policy

- The Department is committed to ensuring that all relevant legislative and regulatory compliance obligations are met.
- All staff must ensure that they comply with applicable legislative and regulatory requirements.
- The Department’s legislative and regulatory compliance and/or administrative obligations are listed on the Legislative and Regulatory Compliance and Accountability Register.
- The Register assigns accountability under each listed item to a nominated position and provides an individual risk rating for each.
- Nominated staff are responsible for monitoring legislative and regulatory changes, advising the Department of any required action, and updating the Register to reflect changing circumstances.

1. Introduction

The Department of Planning and Environment (DP&E; ‘the Department’) has obligations that arise from a number of sources, including the legislative and regulatory environment, and NSW Government policies and Departmental policies and procedures.

This policy sets out processes for identifying and meeting statutory and regulatory requirements as part of the Department’s approach to risk assessment.

1.1 Objectives

The objectives of this policy are to:

- ensure that statutory and regulatory requirements are met;
- ensure that the Department is not exposed to penalties, litigation, or any other adverse outcomes for non-compliance;
- clarify the responsibilities of staff in relation to legislative and regulatory compliance;
- establish a process for the regular monitoring and updating of the Department’s legislative and regulatory compliance obligations; and
- allocate responsibility for these tasks.

1.2 Scope

The Department is committed to the highest standards of ethical conduct and integrity and strives to conduct its business with efficiency, economy, fairness, and impartiality, as outlined in its Code of Ethics and Conduct.

This policy applies to all staff members, which includes any individual employed, appointed, or otherwise attached to the Department, on an ongoing, temporary, casual, contract, or voluntary basis.

It also applies to secondees from other agencies or employees of any firm or company contracted to perform work on behalf of the Department.
1.3 Definitions

**Instrument**
legislation or a regulation to which this policy applies.

**Legislative and Regulatory Compliance and Accountability Register** (the Register)
a register of:
- all relevant legislative and regulatory instruments that apply to the operations of the Department and its agencies;
- the scope of each entity’s accountability under the instrument;
- the likely level of risk arising from non-compliance;
- the nominated and supporting officers responsible for ensuring compliance; and
- suggested measures for managing the identified risks.

**Legislative and Regulatory Compliance Report Form**
a form on which any instance or potential instance of non-compliance, compliance failure, breach of legislation and regulations, or breach of control measures should be recorded.

**Manager**
includes any staff member in an active supervisory role, including directors, managers, and team leaders.

**Nominated position holders**
individuals recorded on the Register as being responsible for ensuring ongoing compliance with legislative and regulatory instruments.

**Reviewer**
the person responsible for undertaking reviews of relevant instruments and preparing reports on behalf of a nominated position holder.

**Staff/staff member**
any individual employed, appointed, or otherwise attached to the Department, on an ongoing, temporary, casual, or voluntary basis.

This includes senior executives and may include secondees from other agencies.

2. Responsibilities

The Department is committed to ensuring effective compliance with applicable laws and regulations. Specific responsibilities under this policy are as follows.

2.1 Staff

All staff members have a responsibility to:
- comply with relevant laws and regulations that apply to their work;
- adopt the management measures set out in the Register to comply with relevant obligations;
- provide suggestions on ways to improve legislative and regulatory compliance;
- report instances and potential instances of non-compliance, compliance failures, breaches of legislation and regulations, and breaches of control measures;
- follow any remedial actions arising in response to such instances; and
- participate in the review and update of the Register as requested by nominated position holders or managers.
2.2 Managers

Managers must:
- promote a culture of compliance at individual and team levels through their own example and action, in accordance with the Department’s values;
- embed legislative and regulatory compliance into operational processes and systems;
- allocate resources as necessary to develop, implement, maintain, and improve legislative and regulatory compliance; and
- identify, recommend, implement, and report on any remedial actions and their effectiveness.

2.3 Nominated position holders

Nominated position holders are listed on the Legislative and Regulatory Compliance and Accountability Register and must:
- establish appropriate processes to monitor legislation, regulations, and any other relevant information.
  Appropriate monitoring disciplines are likely to vary between different Register items, but may include subscribing to email notification services such as those provided by the Parliament, the NSW Audit Office, or other government and regulatory agencies;
- identify any changes in compliance requirements for their nominated instruments and recommend appropriate responses;
- conduct an annual review of all risk ratings of their nominated instruments on the Register;
- advise the Executive Director, Human Resources and Governance of progress with any of the above actions;
- implement approved changes and remedial actions; and
- complete an annual statement of compliance with legislative or regulatory obligations listed on the Register.

2.4 Senior executive

The Secretary, deputy secretaries, executive directors, and directors (where required) must ensure overall legislative and regulatory compliance and the achievement of compliant outcomes under this policy.

3. Policy principles

The Department is committed to complying with all relevant laws and regulations, in line with the values set out in the Corporate Plan 2015-17.

All operations – whether administrative or policy-related – are governed by legislative and regulatory instruments and government policies.

These create obligations that must be monitored, managed, and met in order to fulfil the Department’s commitment to both the NSW Government and the wider community.

Non-compliance with legal and regulatory requirements may not only expose the Department to penalties or litigation, but may adversely affect its reputation and its ability to achieve stated objectives.
Legislative and Regulatory Compliance

All risks are important, whether they are systemic and recurring, or one-off compliance failures, and must be managed appropriately in order to minimise their impacts upon the Department and its responsibilities.

If not reported and responded to in a timely manner, even a small failure can cause significant problems for the Department.

This policy has been tailored to suit the size, structure, and nature of activities undertaken by the Department, and is consistent with the twelve (12) principles of Australian Standard 3806-2006 Compliance Programs (see Appendix 1).

4. Risk assessment and management

The Department has identified the legislation and regulations it must administer, or with which it must comply.

Areas of risk associated with non-compliance have been identified, analysed, and evaluated, and the details have been recorded as items in the Legislative and Regulatory Compliance and Accountability Register.

The Register assigns accountability for each item to a nominated position within the Department.

Risk ratings have been assigned to each item and mitigation plans developed, consistent with the Department’s risk assessment processes (the current risk matrix can be found at Appendix 2).

Staff holding nominated positions must ensure that:

- all relevant risks have been considered;
- appropriate mitigation strategies have been identified; and
- the Department is compliant with all relevant legislative and regulatory instruments.

The Register must be reviewed annually and each item must be assessed against the risk matrix and rated accordingly by the nominated position holders.

The Register is maintained by the Executive Director, Human Resources and Governance and is updated on an annual basis.

5. Monitoring and reporting

In order to ensure that forthcoming changes to legislative and regulatory requirements are identified, a monitoring process has been established, responsibility for which is assigned to position holders nominated on the Register.

Ongoing monitoring of legislative and regulatory obligations helps to provide an overview of policy and compliance performance across the Department.

The results of this monitoring will be reported regularly to allow the Secretary to keep track of performance, through:

- reports of breaches of legislative and regulatory requirements, breaches of control measures, non-compliance, compliance failures, and consequent remedial action;
- changes to requirements that have been identified through monitoring and advised by nominated position holders; and

---

1 AS3806-2006 p.21
other relevant information, as outlined in the monitoring plan below. This work may be carried out by a reviewer on behalf of a nominated position holder, as stipulated in the register.

### 5.1 Monitoring plan

<table>
<thead>
<tr>
<th>Monitoring Process / Activity</th>
<th>Resources / Information to be provided by:</th>
<th>Officer responsible</th>
<th>Frequency of Monitoring</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Performance Monitoring</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Review of compliance failures, breaches, non-compliance etc.</td>
<td>Relevant staff members initiate reports as incidents occur</td>
<td>Executive Director, Human Resources and Governance</td>
<td>Annually</td>
</tr>
<tr>
<td>b. Analysis of complaints received for relevance to compliance issues</td>
<td>Executive Director, Human Resources and Governance</td>
<td>Executive Director, Human Resources and Governance</td>
<td>Annually / every six months</td>
</tr>
<tr>
<td>c. Review of Code of Conduct breaches</td>
<td>Executive Director, Human resources and Governance</td>
<td>Executive Director, Human Resources and Governance</td>
<td>Annually / every six months</td>
</tr>
<tr>
<td>d. Review of litigation claims received for relevance to compliance issues</td>
<td>General Counsel</td>
<td>Executive Director, Human Resources and Governance</td>
<td>Annually / every six months</td>
</tr>
<tr>
<td>e. Review of the status of any compliance risk mitigation or treatment plans</td>
<td>Nominated position holder is advised of reports received by Executive Director, Human Resources and Governance. Nominated position holder provides updates on risk mitigation and treatment plans as they occur</td>
<td>Executive Director, Human Resources and Governance</td>
<td>Annually / every six months</td>
</tr>
<tr>
<td>f. Review of changes in requirements (refer to the Legislative and Monitoring process)</td>
<td>Nominated position holders provide updates as they occur</td>
<td>Executive Director, Human Resources and Governance</td>
<td>Annually / every six months</td>
</tr>
<tr>
<td>g. Review of the overall status of relevant items listed on the Register</td>
<td>Nominated position holders</td>
<td>Executive Director, Human Resources and Governance</td>
<td>Annually</td>
</tr>
</tbody>
</table>

### 2. Policy

<table>
<thead>
<tr>
<th>Monitoring Process / Activity</th>
<th>Resources / Information to be provided by:</th>
<th>Officer responsible</th>
<th>Frequency of Monitoring</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Review of this policy</td>
<td>Executive Director, Human resources and Governance</td>
<td>Governance Policy Review Committee</td>
<td>At review date</td>
</tr>
<tr>
<td>b. Review progress of implementation of this policy</td>
<td>Executive Director, Human Resources and Governance</td>
<td>Governance Policy Review Committee</td>
<td>Annually / every six months</td>
</tr>
</tbody>
</table>

### 5.2 Reporting

#### 5.2.1 Information to be provided to the Governance Policy Review Committee

A summary report based on items in the monitoring plan will be provided annually to the Governance Policy Review Committee by the Chief Financial and Operating Officer.
5.2.2 Information to be provided to the Audit and Risk Committee (ARC)

Information will be provided to the Audit and Risk Committee by the Executive Director, Human Resources and Governance / Chief Audit Executive to enable it to carry out its responsibilities under its Charter, which include:

- determining whether management has appropriately considered legal and compliance risks as part of the Department’s risk assessment and management arrangements; and
- reviewing the effectiveness of the system for monitoring the Department’s compliance with applicable laws and regulations, and associated government policies.

Annual Statements by nominated position holders will be provided to the Chief Audit Executive and a report provided to the Audit and Risk Committee on any matters of consequence.

6. Review and communication of this policy

This policy will be reviewed every two years or at an earlier date in the event of a material change to compliance requirements.

The Executive Director, Human Resources and Governance has carriage for undertaking the review and for promoting the updated policy document to staff once approved by the Governance Policy Review Committee and the Secretary.

This policy will be included in the induction process for new staff members upon commencement of their employment with the Department.

7. Breaches of this policy

Non-compliance with legal and regulatory requirements may expose the Department to penalties or litigation, or may adversely affect the Department’s reputation.

If staff members are unsure about how to follow this policy, they should seek guidance from their manager or the Director, Governance and Performance.

Behaviour that is clearly contrary to this policy will be dealt with appropriately, in a manner that is proportionate to the seriousness of the matter.

It may be that a discussion between the staff member and their manager is enough to clarify the responsibilities of the staff member.

Staff should be aware, however, that the Government Sector Employment Act 2013 provides for disciplinary action to be taken in circumstances where there is a finding of “misconduct”, in accordance with rules made under that Act. Action, under section 69 of that Act, may range from a caution to the termination of employment.
Associated Policies and Guidelines

**Internal:**
- Corporate Plan 2015-17
- Legislative and Regulatory Compliance and Accountability Register
- Audit and Risk Committee Charter
- Code of Ethics and Conduct
- Enterprise Risk Management Policy
- Legislative and Regulatory Compliance Report Form
- Annual Statement by Nominated Position Holders

**External:**
- Australian Standard AS 3806-2006 Compliance Programs

---

**Appendices**

1. Comments on adherence to AS 3806 Compliance Programs
2. Risk Matrix
Appendix 1: Comments on Adherence to AS 3806

The following commentary information guides the Department’s compliance actions under this policy consistent with the Australian standard AS 3806 – Compliance Programs.

Commitment

**Principle 1:**
Commitment by the governing body and top management to effective compliance that permeates the whole organisation.

This policy confirms the commitment by the Secretary and the Governance Policy Review Committee to achieving compliance across the Department.

**Principle 2:**
The compliance policy is aligned to the organisation’s strategy.
The policy supports the Department’s strategic and business objectives.

**Principle 3:**
Appropriate resources are allocated to develop, implement, maintain and improve the compliance program.
The Department will allocate appropriate resources each year to develop, implement, maintain, and improve this policy.
The Secretary has established an Audit and Risk Committee that complies with the requirements of the Internal Audit and Risk Management Policy for the NSW Public Sector.
The Charter of the Audit and Risk Committee (p.3 points 16 and 17) includes amongst its responsibilities:
- ‘determine whether management has appropriately considered legal and compliance risks as part of the Department of Planning risk assessment and management arrangements’; and
- ‘review the effectiveness of the system for monitoring the Department of Planning and Environment’s compliance with applicable laws and regulations, and associated government policies’.

**Principle 4:**
The objectives and strategy of the compliance program are endorsed by the governing body and top management.
The Secretary and the Governance Policy Review Committee have endorsed this policy.

**Principle 5:**
Compliance obligations are identified and assessed.
The Department’s compliance obligations are identified and recorded on the Legislative and Regulatory Compliance and Accountability Register.
The Register comprehensively lists the Department’s legislative and regulatory obligations, and it will be updated continuously whenever new or amended obligations are identified.
Implementation

**Principle 6:**
Responsibility for compliant outcomes is clearly articulated and assigned.
This policy articulates and assigns responsibility for compliant actions and outcomes.

**Principle 7:**
Competence and training needs are identified and addressed to enable staff to fulfil their compliance obligations.
Training and development needs, including those associated with compliance are identified and addressed by the Department.
The performance management system supports the identification of training and development needs.

**Principle 8:**
Behaviours that create and support compliance are encouraged and behaviours that compromise compliance are not tolerated.
Behaviours supporting compliance are encouraged and promoted through the use of induction training, the Department’s *Code of Conducts and Ethics*, and the behaviour modelled by all levels of management.
Activities that compromise compliance will be dealt with appropriately.

**Principle 9:**
Controls are in place to manage the identified compliance obligations and achieve desired behaviours.
The *Legislative and Regulatory Compliance and Accountability Register* identifies the legislation and regulations the Department must administer, or with which it must comply.
Monitoring and reporting of performance against the Register to the Governance Policy Review Committee and the Audit and Risk Committee provide a structure that supports the appropriate review and management of controls.

Monitoring and Measuring

**Principle 10:**
Performance of the compliance program is monitored, measured and reported.
The implementation of this policy, and the Department’s performance against it, will be monitored, measured, and reported to the Governance Policy Review Committee by each review date.

**Principle 11:**
The organisation is able to demonstrate its compliance program through both documentation and practice.
The monitoring and review of this policy will generate records that will be used as evidence of its effectiveness.

**Principle 12:**
The compliance program is regularly reviewed and continually improved.
This policy will be reviewed and updated every two years, and will be amended as required outside of this process where required.
Staff are encouraged to make suggestions to facilitate continuous improvement of the policy.
### Appendix 2: Risk Matrix

<table>
<thead>
<tr>
<th>Likelihood</th>
<th>1 Insignificant</th>
<th>2 Minor</th>
<th>3 Moderate</th>
<th>4 Major</th>
<th>5 Extreme</th>
</tr>
</thead>
<tbody>
<tr>
<td>The consequences can be dealt with by routine operations</td>
<td>A threat to the efficiency or effectiveness of some aspect of operations, but at a level which can be dealt with internally</td>
<td>Functions of the organisation could be subject to significant review or changes to operations</td>
<td>Would produce a threat to the survival or effective performance of the organisation</td>
<td>Consequences may threaten the survival of the organisation</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Likelihood</th>
<th>5 Almost certain</th>
<th>4 Likely</th>
<th>3 Possible</th>
<th>2 Unlikely</th>
<th>1 Rare</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very high – this risk will occur several times over a short period, say 6 months</td>
<td>High – risk may occur once or twice per year</td>
<td>Risk might occur once in a period of several years</td>
<td>A risk which has yet to occur but could occur over time</td>
<td>A risk that is relatively unknown, and not been experienced to date</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Consequences</th>
<th>1 Low</th>
<th>2 Low</th>
<th>3 Low</th>
<th>4 Low</th>
<th>5 Moderate</th>
<th>6 Moderate</th>
<th>8 Moderate</th>
<th>10 Significant</th>
<th>15 High</th>
<th>20 Extreme</th>
<th>25 Extreme</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Insignificant</td>
<td>5. Moderate</td>
<td>10 Significant</td>
<td>15 High</td>
<td>20 Extreme</td>
<td>25 Extreme</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2 Minor</td>
<td>4. Low</td>
<td>8 Moderate</td>
<td>12 Significant</td>
<td>16 High</td>
<td>20 Extreme</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3 Moderate</td>
<td>3. Low</td>
<td>6 Moderate</td>
<td>9 Moderate</td>
<td>12 Significant</td>
<td>15 High</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4 Major</td>
<td>2. Low</td>
<td>4 Low</td>
<td>6 Moderate</td>
<td>8 Moderate</td>
<td>10 Significant</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5 Extreme</td>
<td>1 Low</td>
<td>2 Low</td>
<td>3 Low</td>
<td>4 Low</td>
<td>5 Moderate</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**KEY**

- **Extreme:** Immediate action required – for Secretary’s attention
- **High:** Executive management attention needed
- **Significant:** Senior management attention needed
- **Moderate:** Manage by standard procedures
- **Low:** Manage by standard procedure