

STATEMENT OF INTENT FOR THE BOARD OF THE ENVIRONMENT PROTECTION AUTHORITY (For the Period to 31 March 2020)

This statement communicates to the Minister for Environment, the intent of the Board of the Environment Protection Authority with respect to the performance of its functions and powers in the achievement of its objectives under the *Environmental Management and Pollution Control Act 1994*.

1 Functions of the Board of the Environment Protection Authority

The Board of the Environment Protection Authority (EPA) is established under section 13 of the *Environmental Management and Pollution Control Act 1994* ("the Act").

The functions and powers of the Board are set out in section 15 and are:

to administer and enforce the provisions of the Act, and in particular, to use its best endeavours –

- to further the objectives of the Act; and*
- to ensure the prevention or control of any act or omission which causes or is capable of causing pollution; and*
- to advise the Minister, on the request of the Minister or at the discretion of the Board, on any matter that may significantly affect the achievement of the objectives of the Act; and*
- to ensure that valuation, pricing and incentive mechanisms are considered in policy making and programme implementation in environmental issues.*

The Board must perform such other functions as are conferred on it by, or under the Act, or any other Act and may do all things necessary or convenient to be done for, or in connection with, or incidental to, the performance of its functions.

The Act sets out specific functions and powers for the Board in relation to environmental assessment of development proposals, environmental agreements, mandatory environmental audits, financial assurances, environmental improvement programs and the Environment Protection Fund.

The Director has a range of functions, including a number that relate to administering the enforcement provisions of the Act.

Section 8 of the *Environmental Management and Pollution Control Act 1994* provides that all decision-makers must seek to further the objectives of the Act. These objectives include the overarching objectives of Tasmania's Resource Management and Planning System and the objectives of the Environmental Management and Pollution Control System established by the Act. All functions performed by the Authority are therefore directed at achieving the objectives of the Act.

2 Context

Section 15 of the Act requires the Minister for Environment to provide the Board with a Statement of Expectation. The Board received a Statement of Expectation from the Minister in on 2 April 2019. The Statement of Expectation may be viewed on the EPA website (www.epa.tas.gov.au).

Section 15B of the Act requires the Board to provide the Minister with a Statement of Intent within 3 months of receiving the Ministerial Statement of Expectation. The Statement of Intent is to:

- (a) *specify the objectives of the Board for the period covered by the statement of intent; and*
- (b) *address matters raised in the ministerial statement of expectation; and*
- (c) *state the nature and scope of the activities to be carried out by the Board during the period covered by the statement of intent; and*
- (d) *specify the performance criteria and other measures by which the performance of the Board is to be assessed against the objectives of the Board for the period covered by the statement of intent;*

and may contain any other matter that the Board considers appropriate

In short, the Statement of Intent outlines how the Board will respond to the expectations outlined in the Minister's Statement of Expectation.

The structure of this Statement of Intent is to set out the Board's high level objectives as required in (a) together with the performance measures for each objective required by (d). The Statement of Intent then follows the Statement of Expectation by addressing each matter raised (requirement (b)), and the activities to be carried out by the Board in relation to that matter (c). It provides extracts from the Statement of Expectation (in shaded italics), followed by corresponding expressions of intention by the Board of the EPA.

The 2016 – 2019 and 2020 - 2023 EPA Strategic Plans will provide further information on the Board's intentions for the period of this Statement of Intent.

3 Objectives

The Board's objectives for the period covered by this Statement of Intent are to:

- (1) Ensure the Board carries out its functions and activities in conformance with the requirements of the Act.
- (2) Ensure the Board's decision-making is independent, transparent and objective.
- (3) Provide leadership and direction on matters of environmental quality and sustainability.
- (4) Address the specific matters and priority issues identified in the Minister's Statement of Expectation.

4 Matters Raised in the Statement of Expectation

4.1 Communication with Minister

Minister's Expectation:

To meet my Ministerial obligations to Parliament and the public on the activities of the Authority, the Board should provide me with regular information on the Authority's operations and performance and bring to my attention in a timely manner, information on significant environmental incidents, or other matters of significant environmental consequence. This should include providing me with a copy of communiqués issued by the Board after its monthly meeting.

I expect the Board will inform me in a timely way, about issues affecting the Authority's capacity to achieve its objectives and fulfil its functions under the Act.

The EPA Board will provide copies of all communiqués to the Minister and invite the Minister to attend one of its meetings each year.

The Chair will meet with the Minister at least once a year (and on an as-needs basis if required) to discuss any significant issues, performance, and management of environmental risk.

The Director will meet with the Minister on a monthly basis to report on the Board's operations and significant operational issues.

4.2 Government Policies

Minister's Expectation:

In performing its function the Board should take into account published Tasmanian Government policies or those advised by me in writing, relevant to its functions. The Tasmanian Government is committed to a target of 50 per cent representation of women across government boards and committees by July 2020. To that end, I expect that if the Board establishes any sub-committees, it will set out to achieve the Government's gender equity target.

The Government has a policy of regulatory reform, seeking to reduce the burden of unnecessary regulation on business and the community; I expect the Board will take account of this policy in the management of its legislative responsibilities.

The Government has transferred the environmental regulation of the salmonid industry to the Director as a level 2 activity through an amendment to Schedule 2. The Board will need to work closely with the Minister for Primary Industries and Water in relation to the application of Section 27 of the Act and its intersect with the Marine Farming Planning Act 1996.

The Board should take into account the Government's policy on climate change, the objects of the Climate Change (State Action) Act 2008, and consider the implications of climate change on environmental protection measures proposed in permit applications from proponents. The Board should consider relative greenhouse gas emission savings as part of its assessment and decision-making on development proposals put before it.

The EPA Board will:

- identify published Tasmanian Government policies relevant to its powers and functions under the Act and maintain a register of these;
- add to that register any additional polices advised by the Minister in writing;
- publish the register on its web site; and
- work within the established administrative framework of the State of Tasmania, whilst retaining its independence in performing its statutory duties at arm's length from the Government.

The Board will:

- take into account the Government's gender equity target if it establishes any new sub-committees.
- respond to the recommendations of the "*Review of Administrative Processes in the Assessment of Level 2 and Called in Activities*" (the Abernethy review) to reduce regulatory burden.
- continue to require applicants to address greenhouse gas emissions as part of the development assessment process (as appropriate taking account of the proportionate regulatory burden) and will take account of any relevant Government policies on climate change. The Board will also consider the impacts of climate change on proposed environment protection measures and, where relevant, take account of potential greenhouse gas emission savings that may result from development applications.

The Board notes that there are legislative provisions to prevent the duplication of the assessment of aquaculture activities that may be subject to both EMPCA and the *Marine Farm Planning Act 1996* and will carry out the environmental assessment of those activities referred to it in accordance with the provision of EMPCA.

4.3 Legal Advice

Minister's Expectation:

Unless the Board perceives a potential conflict of interest, it must obtain any necessary legal advice from the Office of the Solicitor General. In any legal actions taken by or against the Authority, the Board must be represented by, or in consultation with, the Director of Public Prosecutions or the Office of the Solicitor General – Civil Litigation.

The EPA Board will:

- obtain any legal advice it requires from the Office of the Solicitor-General as the default;
- consult the Solicitor-General regarding the need for external advice if the Board considers that for any reason seeking advice from the Solicitor General may be inappropriate or may be seen to be inappropriate; and
- seek representation by the Director of Public Prosecutions or the Office of the Solicitor General – Civil Litigation in relation to any legal action the Board may be involved with.

4.4 Relationship with the EPA Tasmania

Minister's Expectation:

I expect the Board will maintain clear lines of communication with EPA Tasmania, being the supporting Division within the Department of Primary Industries, Parks, Water and Environment and will work in collaboration with the senior staff, and the Secretary of the agency.

The EPA Board will:

- communicate with the EPA Tasmania officers as required by channelling requests for support and providing feedback through the Deputy Secretary of the Division or his or her nominee;
- resolve any issues regarding the level or quality of support provided by EPA Tasmania by raising these with the Deputy Secretary in the first instance;
- through the Chair, meet the Secretary of the agency annually or as required to review support and communications arrangements and discuss any other matters of mutual interest;
- involve key Division officers in the development of the EPA strategic plan and work with the Deputy Secretary and Secretary to ensure that the Board's priority actions and programs are supported through the EPA Tasmania's Business Plans;
- maintain, in consultation and agreement with the Deputy Secretary, a set of protocols to govern the main interactions between the Board and the Division; and
- delegate to appropriate officers in EPA Tasmania a number of the Board's functions and powers to undertake the more mechanical of its obligations under the legislation. The Board will ensure that it receives regular reports on the exercise of delegated functions and powers and will regularly review the delegations.

4.5 Corporate Governance and Values

Minister's Expectation:

During this period, I expect the Board to continue to focus on good governance and accountability.

The EPA Board will:

- ensure that all members are aware of their responsibilities to disclose interests that may cause a conflict with their role on the Board (in accordance with section 5 of Schedule 3 of the Act), and include a specific item on the agenda of each meeting relating to the disclosure of interests;
- maintain a register of member's interests;
- adopt contemporary corporate governance practices; and
- act impartially, fairly, ethically and professionally in carrying out its roles and functions

4.6 Reporting

Minister's Expectation:

The annual report should be delivered to me by 1 October each year and include appended copies of the Statement of Expectation and the Board's Statement of Intent that were in effect during the reporting period.

The EPA Board will:

- produce an Annual Report for Parliament containing the required content and deliver this to the Minister by 1 October each year, or such other date as the Minister advises is required for the tabling of the Report in Parliament.
- Ensure that the Statement of Expectation and Statement of Intent are publicly available on the EPA's website.

4.7 Policies and Processes

Minister's Expectation:

The Board should continue to routinely review and develop its operational policies and processes to ensure it performs its functions proficiently, consistently, effectively and transparently. I expect the Board to take particular care to ensure that its processes provide for timely decisions and that the degree of regulatory burden imposed is the minimum necessary to achieve appropriate environmental outcomes.

The EPA Board will:

- Continue to progressively review its policies and processes; and
- identify the need for and develop new policies and processes required to cover gaps or meet new requirements of the Act or Statement of Expectation.
- during the term of this Statement of Intent, respond to the recommendations of the "Review of Administrative Processes in the Assessment of Level 2 and Called in Activities" to reduce regulatory burden.

4.8 Assessment of Development Proposals

Minister's Expectation

The Board's primary function is the assessment of development proposals against the RMPS and EMPCS objectives. This involves the very difficult task of balancing the sometimes competing objectives which require the facilitation of economic development on the one hand and the attainment of quite specific environmental objectives on the other. The Board should note the current planning reform processes to introduce a single State-wide Planning Scheme, and ensure its processes support the new planning regime.

I expect that in the course of making such decisions of balance, the Board has due regard for the social and economic circumstances prevailing in Tasmania and the objectives of the Government with respect to those circumstances.

In particular, I expect the Board to take account of the need to create a more prosperous and equitable society and this relies in large part upon providing employment opportunities where they are most needed. The Government's policy position is that an affluent and productive community is better able to manage society's long term environmental challenges and I expect the Board to facilitate that outcome wherever it can.

The EPA Board will:

- use its best endeavours to inform itself about the environmental, social and economic considerations to the extent appropriate for each development proposal it considers; and
- be cognisant of the need to consider the social and economic effects of proposed developments, including employment opportunities, together with environmental impacts when weighing up how its decisions will further the RMPS objectives.
- seek a briefing on the single State-wide Planning Scheme.

4.9 Community and Stakeholder Engagement

Minister's Expectation:

I expect the Board to maintain a communications program to inform the Tasmanian public about the Authority's independent role within the Resource Management and Planning System of Tasmania and to advise of its decisions in a timely manner. I expect the Board to engage broadly with relevant stakeholders in the development of its policies and processes and in the course of the development of any policy advice.

Within the scope of its statutory functions, I expect the Board to facilitate and promote the provision of regulatory information to the public as much as possible, having regard to commercial sensitivity, data integrity and analysis. The community has a right to information regarding the environment, and environmental management regulation and decisions. Environmental monitoring data, including that collected by regulatory requirement, should be provided in a form easily accessible and understandable to the general public. Achieving this objective will require a joint approach by the Board and the Director.

The EPA Board will:

- maintain a web site to provide information on its activities, programs and decisions, including policies and guidance material;
- ensure that relevant stakeholders are consulted as appropriate in the development of policy recommendations;
- promote awareness of the Board and its roles through strategic sponsorship;
- place a communique summary of each Board meeting on the EPA web site;
- produce a publicly available annual report; and
- during the term of this Statement of Intent, work with the Director to facilitate and promote the provision of regulatory information, including monitoring data, to the public.

4.10 Fee Remissions

Ministers Expectation

During the next twelve months, I expect the Board to review and, where necessary, improve the effectiveness of the annual fee remission scheme, in encouraging better management of environmental risks, and improved environmental performance from regulated activities. The review should identify any necessary changes to the scheme, which should be encompassed in revised Annual Fee Remission Guidelines and implemented during this period.

The Board should note that it is the intent of the Government that industry should contribute to the cost of services provided by the Government to provide sound environmental protection, and that environmental fees indirectly support the operational needs of EPA Tasmania.

The EPA Board will

- work with EPA Tasmania and the Director to devise a more effective remission scheme for the variable component of the annual fees charged to activities regulated by the EPA, noting that any change to the structure or quantum of the fees is a matter for the Parliament. The Board will take account of the Government position on cost recovery.
- aim to revise its Annual Fee Remission Guidelines during the period of this Statement of Intent. The Board notes that there may need to be consultation with industry and a lead-in period before any significant changes to the Guidelines take effect.

Environmental Priorities

4.11 Water Quality

Minister's Expectation:

The Board should continue to have due regard for its obligations under the State Policy on Water Quality Management.

The EPA Board will discharge its obligation under the State Policy to set water quality objectives when these may be required to establish emission limits or when requested to do so by other regulatory authorities.

4.12 Air Quality

Minister's Expectation:

The Board should continue to have due regard for the Environment Protection Policy (Air Quality) in its assessment of development proposals.

The Board will set emission limits and assess air quality impacts in accordance with the Environment Protection Policy (Air Quality).

4.13 Mining Legacy Sites

Minister's Expectation:

I expect the Board to actively oversee the Savage River Rehabilitation Program to ensure that the best possible long-term environmental benefit is realised from the remediation resources available to us. I also expect the Board to take particular care to ensure that future mine operations do not create additional sites of ongoing environmental degradation through appropriate and robust conditioning upon any new mining proposals.

The EPA Board will:

- ensure that Savage River Rehabilitation Project funds are expended to achieve the best long-term environmental result for Tasmania; and
- ensure that permits for new or re-opened mines contain appropriate conditions to ensure that they do not create additional environmental legacies for Tasmania.

4.14 Waste

Minister's Expectation:

The Board should continue to have regard for the need to minimise waste generation and maximise the efficient utilisation of wastes as a resource in its assessment of development proposals. This should include consideration of the strategic significance of waste management facility proposals put before it.

I expect the Board to take account of the 2018 National Waste Policy: Less Waste, More Resources and apply the principles of a circular economy that focus on the idea of continually reusing, recycling and reprocessing materials.

The EPA Board will:

- give appropriate weight to the waste minimisation objectives of the Environmental Management and Pollution Control Act when considering new developments, and, to the extent allowable by the legislation, will have regard to the strategic significance of new waste management proposals; and
- seek a briefing on the National Waste Policy and, as appropriate and consistent with the objectives of EMPCA, take account of it in decision-making and conditioning permits.

5 Performance Measures

Objective 1 :

Ensure the Board carries out its functions and activities in conformance with the requirements of the Act.

Performance measures

- Assessments completed within the timeframes required by the Act.
- Board decisions not overturned because of incorrect procedures.

Objective 2

Ensure the Board's decision-making is independent, transparent and objective.

Performance Measures

- Process in place to deal with conflicts of interest before they arise.
- No decisions overturned because a participating member had a conflict of interest.
- All decisions of the Board, Assessment Reports and the conditions set on permits published on the EPA web site.

Objective 3

Provide leadership and direction on matters of environmental quality and sustainability

Performance Measure

- Complete and publish a Strategic Plan for the Authority for the period 2020 - 2023

Objective 4

Address the specific matters and priority issues identified in the Minister's Statement of Expectation.

Performance Measures

- Respond to the recommendations of the "Review of Administrative Processes in the Assessment of Level 2 and Called in Activities" to make the assessment process more efficient and effective.
- Revise the Board's Annual Fee Remission Guidelines for the variable component of annual permit fees to make them more effective in promoting and rewarding better environmental performance.
- Annual report includes a statement of achievements against Board objectives and the Ministers Statement of Expectation.


Warren Jones
Chair

10th May 2019