

# Memorandum of Understanding between the Forest Practices Authority and the Environment Protection Authority on matters of overlapping jurisdiction

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## I. Objectives

The objectives of this agreement are to:

- 1.1 Set out the respective roles of the Forest Practices Authority (FPA) and the Environment Protection Authority (EPA) in relation to:
  - a) responses to pollution incidents arising from forest practices;
  - b) environmental assessment and regulation of forestry quarries;
  - c) review of environmental legislation or policy relevant to forest practices; and
  - d) other matters of potentially overlapping jurisdiction or interest.
- 1.2 Establish principles and procedures by which the FPA and the EPA will work collaboratively in regulating forest practices to achieve:
  - a) *reasonable protection to the environment* in accordance with the *Forest Practices Act 1985* (FP Act) and the *Forest Practices Code* (FPC);
  - b) *best practice environmental management* in accordance with the *Environmental Management and Pollution Control Act 1994* (EMPC Act), subordinate legislation and relevant guidelines;
  - c) minimised potential for duplication of regulatory effort; and
  - d) transparency and accountability for environmental regulation of forest practices

## 2. Rationale for MoU and Relevant Legislation

The Parties acknowledge that:

- 2.1. The *Forest Practices Act 1985* (FP Act) among other things, provides for regulation in accordance with the *Forest Practices Code* (FPC) of potential environmental impacts of forestry activities. Certified Forest Practices Plans (FPPs) are used to regulate the particulars of specific forestry operations. The FPA administers and oversees compliance with the FP Act, the FPC and FPPs.
- 2.2. The *Environmental Management and Pollution Control Act 1994* (EMPC Act) among other things, provides for management of the environment and control of pollution. Environment Protection Notices (EPNs) may be issued by the Director, EPA, to regulate environmentally relevant activities such as forestry operations, in accordance with the EMPC Act, and any relevant guidelines. The EPA administers and oversees compliance with the EMPC Act, EPNs and relevant guidelines, among other things.
- 2.3. The EMPC Act and subordinate legislation does not exclude forestry and contain requirements that are applicable to forest practices, relating to matters such as smoke, noise, dust, waste, odours, and the emission or release of substances that may harm the environment. Consequently, regulatory

jurisdiction between the FPA and the EPA in relation to environmental impacts of forest practices, may overlap.

- 2.4. The FPA and the EPA each have an obligation to seek compliance with the legislation they administer, and in accordance with any compliance policy each adopts.

### **3. Principles and Procedures for Addressing Areas of Overlapping Jurisdiction**

The FPA and the EPA agree to work together in relation to matters that may fall within the jurisdiction of both. Specifically, the parties agree that:

#### **Complaint Handling and Investigations involving Forest Practices**

- 3.1. The FPA will be the front-line, principal authority for regulating environmental impacts of forestry activities, in accordance with its duties and functions under the FP Act.
- 3.2. The EPA will in the first instance forward any complaints it receives about forestry activities to the FPA for investigation.
- 3.3. Any matters of suspected non-compliance with the EMPC Act arising from forestry activities will first be investigated by FPA and may be referred to the EPA if the FPA concludes it does not have sufficient powers or resources to take appropriate action.
- 3.4. When investigating complaints or carrying out its own compliance auditing of forestry activities, the FPA will be mindful of the provisions of the EMPC Act and, if its officers detect potential non-compliance with the EMPC Act that will not be addressed by compliance with the FP Act, the FPC or a FPP, will refer the matter to the EPA.
- 3.5. The EPA will investigate any such referred matters in conjunction with the FPA and the parties will consult on the most appropriate form of action.
- 3.6. The Director, EPA, may in certain circumstances issue an Environment Protection Notice (EPN) to a person responsible for forestry activities to impose conditions and restrictions upon those activities. Compliance with EPNs issued to persons responsible for forestry activities may be overseen by the FPA or the EPA, subject to consultation between the parties and Clause 3.7 below.
- 3.7. The Director, EPA will appoint the Chief Forest Practices Officer and FPA compliance officers as authorised officers under the EMPC Act so that they may oversee compliance with EPNs issued to forestry operators and otherwise exercise powers available under the EMPC Act in relation to forestry activities, if necessary. Such appointments will be subject to FPA officers first participating in an EMPC Act induction.

#### **Environmental Assessment and Regulation of Forestry Quarries**

- 3.8. A level 2 quarry that services forest practices and does not require a land use planning permit is to be referred by the proponent to the Board of the EPA for environmental assessment, in accordance with Section 27(1) of the EMPC Act.
- 3.9. The EPA Board or its delegate may, pursuant to Section 27(4) of the EMPC Act, determine an assessment of such a quarry is not required if satisfied the quarry will not result in serious or material environmental harm. In deciding, the Board or delegate may take into consideration any draft FPP that applies to such a quarry.

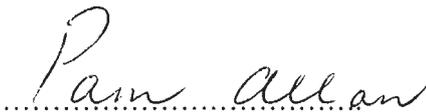
## Review of Environmental Legislation and Policy Relevant to Forest Practices

- 3.10. The FPA and the EPA will work collaboratively on:
- 3.10.1. any review of the Forest Practices Code to ensure compliance with the Code satisfies the General Environmental Duty prescribed in the EMPC Act;
  - 3.10.2. any review of the EMPC Act or subordinate legislation to ensure forestry activities are appropriately considered;
  - 3.10.3. any review of the Quarry Code of Practice to ensure quarries which service forestry operations are appropriately considered; and
  - 3.10.4. any review or creation of statutory or non-statutory environmental management guidelines relevant to forest practices

### General

- 3.11. The parties agree to work cooperatively on any other specific issues or matters of mutual interest or jurisdiction. Such matters may be raised by either party in the first instance through the Chief Forest Practices Officer or the Director, EPA as nominated officers for any notifications, including dispute resolution.
- 3.12. The MoU supersedes all previous arrangements, agreements and understandings between the parties dealing with the same subject matters.
- 3.13. The MoU will commence when signed by both parties and continues indefinitely, unless either party terminates the MoU by providing the other party with three months' written notice.
- 3.14. The parties will review the MoU annually or as agreed between the parties in writing, including actions taken under it, challenges that arose, lessons learnt and opportunities for improvement.
- 3.15. The MoU is not legally binding or enforceable, as both parties agree to act in good faith and in the spirit of mutual collaboration and cooperation.

Signed on behalf of the Forest Practices Authority



Chair of the Board of the FPA

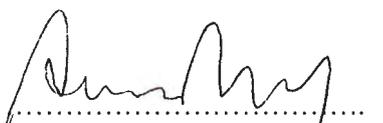
Date: 21 June 2022



Dr Peter Volker,  
Chief Forest Practices Officer

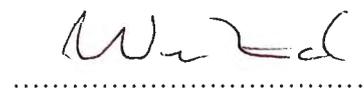
Date: 31 May 2022

Signed on behalf of the Environment Protection Authority



Andrew Paul, Chair, EPA Board

Date: 2 August 2022



Wes Ford, Chief Executive Officer and  
Director, Environment Protection  
Authority

Date: 2 August 2022