

# **Environmental Defenders Office (Tas.) Inc.**

131 Macquarie Street  
Hobart TAS 7000

tel: (03) 6223 2770  
fax: (03) 6223 2074  
email: [edotas@edo.org.au](mailto:edotas@edo.org.au)

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General Manager  
Environment Division  
Department of Tourism, Arts and Environment  
GPO Box 1751  
Hobart TAS 7001

Dear Sir

## **Establishing an Environment Protection Authority for Tasmania**

Thank you for the opportunity to make a submission in relation to this exciting initiative.

The Environmental Defenders Office (EDO) is a non-profit, community based legal service specialising in environmental and planning law.

Our submission responds to the issues raised in the Position Paper.

### **SUMMARY**

The EDO supports the creation of an Environment Protection Authority (EPA) in Tasmania. Furthermore, we welcome the employment of an independent chairperson and removal of Ministerial call-in powers. The EDO also supports a review of the functions and powers of the Board and believes that the Board must have capacity to engage in cooperative and innovative projects with industry and others to protect the environment.

However, the EDO recommends that establishment of an EPA in Tasmania be done in the context of the long-term objective of a more self-sufficient statutory authority than is currently proposed. We submit that the government should consider undertaking a more expansive examination of alternative models before taking the measures discussed in the Position Paper. The changes could also take place in conjunction with implementation of the review of the *Environmental Management and Pollution Control Act 1994* (EMPCA).

### **THE PROPOSED FRAMEWORK**

The Position Paper indicates the actual legislative changes to establish an EPA will be very narrow. Essentially, the result will be renaming the current EMPCA Board, a relatively minor change to its composition and leadership and the removal of Ministerial call-in powers.

Arguably, these proposals are merely “window dressing” and will not effect any substantive change in environmental management. However, this need not be the case if the current proposal is seen as part of incremental movement towards the

longer-term vision of an independent EPA. The EDO would strongly support more detailed discussion of the objectives of the proposed EPA and an examination of alternative models to determine which model best addresses the needs of Tasmania. This process could be integrated with the implementation of the recommendations for the EMPCA review project.

We recommend that the process for considering the most appropriate model for the Tasmanian EPA involve the following steps:

### **1. Document the current role of the Environment Division**

As discussed at page 6 of the Position Paper, clearly defined roles and responsibilities will be important to ensure that an EPA achieves its objectives. The first step in considering these roles and responsibilities, and the viability of transferring the functions of the Environment Division to the new EPA, is to clearly document the functions of the current Environment Division.

### **2. Consider environmental management functions of other government bodies**

Identifying all environmental management functions currently performed by state bodies other than the Environment Division, such as Minerals Resources Tasmania and the Forest Practices Authority, will provide a sound basis for considering whether these functions can, or should, be amalgamated into the role of an independent EPA.

The centralisation of environmental management functions within an independent EPA, integrated into the RMPS, could have a number of benefits. These include:

- significantly reducing duplication across government authorities. This could offset the costs of establishing a self-sufficient environmental authority referred to at page 13 of the Position Paper;
- improving consistency of resource management decisions; and
- reducing any public perception that certain industries receive some form of special treatment under the current legislative regime (as alluded to in the Position Paper).

The need for specialist knowledge and relationships with industry in particular resource management areas can no doubt be accommodated in an appropriately structured EPA.

### **3. Examine alternative models**

As noted in the Position Paper, each jurisdiction in Australia with an EPA uses a different model. This submission does not seek to detail other models, or to recommend any particular model for achieving an independent environmental authority.

However, the EDO believes that it is important to identify the long-term objectives of an independent EPA and discuss the most appropriate model to achieve these objectives. We would welcome the opportunity to discuss these issues in greater detail in the context of a process such as that outlined above.

We would also like to make the following specific comments in relation to the model proposed in the Position Paper.

### **Composition of the Board**

The EDO supports the proposal for an independent chairperson of the EPA.

As the Position Paper identifies, the chairperson is the public face of the EPA. Consequently, the EDO believes that the government should consider making this role full-time, rather than part-time as currently proposed. Providing a full time position would allow the chairperson to fulfill the current functions of the Chairperson of the Board of EMPC, as well as promoting the EPA in the public arena.

Full-time commitment will also give the Chairperson time to develop the type of innovative approaches to environmental protection seen in other EPAs throughout Australia.

### **Functions and Powers of the Board and Director**

The EDO welcomes an examination of the role of the EPA Board as part of this proposal. We support clarification of the role of the Board in providing advice to the Minister.

The Position Paper states that the Board's role in relation to "strategic policy advice" will also be reviewed. The EDO supports this broad approach, considering both the enforcement and non-enforcement related functions of the proposed EPA. A review of EPAs in other states indicates that these dual functions are critical both to the EPA's standing within the community and its capacity to achieve its core function of protecting the environment. In simple terms, it is a balancing of the carrot and the stick.

The EDO would support moves to clearly outline the Board's functions and powers so as to encourage cooperative activities with industry and the community. The powers should enable the EPA to develop new and innovative ways to protect the environment. This is particularly relevant to projects and cooperative arrangements aimed at efficient resource use, responsible waste management and better implementation of user-pays policies.

### **The Environment Division and the EPA**

The Position Paper acknowledges that there is currently a lack of recognition and understanding regarding enforcement and management decisions under EMPCA. As a consequence, there is a perception that many environmental management decisions are not "independent".

A number of reasons for this perception are set out at page 10 of the Position Paper. Some of these reasons may be addressed by creating an EPA as proposed, however other sources of perceived lack of independence will persist. In particular, the staff supporting the functions of the EPA will continue to reside in the Environment Division.

The EDO acknowledges the administrative advantages of this approach and supports Environment Division staff providing services to the EPA *as an interim measure*. However, our preferred long-term option would involve all relevant staff being employed directly by the EPA.

## **Ministerial Call-In Provisions**

The EDO supports the removal of the Ministerial call-in provisions.

The Environmental Defenders Office appreciates the opportunity to make these comments. Please do not hesitate to contact us if you wish to discuss anything raised in this submission.

Kind regards,

**Environmental Defenders Office (Tas) Inc**

Per:

Adam Beeson  
Interim Principal Lawyer