



31 March 2020

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Julie Hardaker
Chair
Environmental Protection Authority
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Dear Julie

Letter of Expectations for the 2020/21 financial year

1. We are writing to convey our expectations of you (the Environmental Protection Authority (EPA)) to inform your Statement of Performance Expectations for 2020/21.

Context and Government-wide priorities

COVID-19 response

2. The Government recognises there will be challenges for communities, businesses and households in complying with their usual obligations while we respond to COVID-19.
3. In regards to the Emissions Trading Scheme (administered under the Climate Change Response Act 2002), we understand the EPA will take a facilitative and flexible approach to assisting NZ Emissions Trading Register participants and eligible persons where allowed by the Act. This includes taking the effects of COVID-19 into account when exercising your discretion under the Act to the extent permitted by law (for example, in the context of granting extensions or considering penalty reductions). We also request that you communicate the potential use of this discretion to those subject to the Scheme as soon as possible.
4. We expect the EPA to take a similar facilitative and flexible approach across all of its other business functions. We understand giving effect to these expectations should be balanced by the ever-changing situation, and encourage you to keep the Ministry for the Environment (MfE) and ourselves updated on any significant changes to the EPA's operations in light of COVID-19.

General Government-wide expectations

5. The Ministers of Finance and State Services released a new Enduring Letter of Expectations to all statutory Crown entities last year, available at <https://ssc.govt.nz/resources/enduring-letter-of-expectations-to-statutory-crown-entities-2019>. Important priorities include working as a unified values-based government for all New Zealanders, supporting future-focussed Māori Crown relations and contributing to improving wellbeing. We expect that you and the EPA will report on and give effect to these priorities alongside meeting our specific Ministerial expectations.

Our high-level priorities for the EPA

Regulatory functions: responding to risks and developing a comprehensive strategy

6. The environmental management system has come under increasing scrutiny recently with particular interest on the performance of compliance monitoring and enforcement (CME) activities. We note that the EPA is shifting towards a stronger, more proactive compliance

approach as signalled in your Statement of Intent 2019-2023, including consolidating a number of your CME functions under one business group.

7. We would like you to keep us informed on the development of any comprehensive CME strategies and plans across your legislative functions and for the resource management system to support and improve regulatory practices. Such strategies and plans should take into account the findings of the Hazardous Substances Technical Working Group and the Resource Management Review Panel and enable the EPA to use all of its regulatory powers appropriately. We also expect the EPA to continue to develop and improve its enforcement role in the Exclusive Economic Zone and its technical capability here.
8. With the EPA's Enforcement Unit awaiting formal powers from the Resource Management Amendment Bill, we expect it will play an important role to help improve the overall performance of CME activities and environmental outcomes. We would like to see the EPA continue to foster a productive and collaborative relationship with local government agencies and the public on addressing the most significant environmental compliance issues in the future. One such area of focus includes having the Unit being proactive with local government to ensure robust compliance with hazardous waste treatment and disposal sites. Another area should be helping to prosecute egregious cases of non-compliance. We expect that prosecutions will be taken in accordance with the Solicitor-General's Prosecution Guidelines.
9. The 2019 Review of the New Zealand Transport Agency's regulatory performance and its findings gives a firm reminder to leaders of regulatory agencies on the importance of maintaining an effective regulatory culture throughout an organisation. We are interested in the EPA's response to this review and we invite you to report to us by the end of June 2020 with a summary of steps taken within the organisation to mitigate and respond to any significant regulatory risks.

Ensuring effective governance

10. We are pleased to hear you will be undertaking a self-initiated review of the effectiveness of the EPA Board this financial year. We would appreciate being informed of the outcomes of this review, including any gaps and areas for attention.

Maintaining fiscal responsibility

11. The Government continues to be committed to building a more productive, sustainable and inclusive economy. We are aware that the EPA has a cost pressure Budget Initiative for ongoing baseline funding of its Exclusive Economic Zone functions up for consideration this round. Regardless of the outcome, we encourage you to continue working closely with MfE and the Treasury to ensure that the EPA's financial status remains stable and secure for the future, and to ensure that the cost recovery regime is well managed.

Maintaining systems and infrastructure by carefully managing the Programme of Work

12. We note that the EPA continues to run a deficit budget model to expend its accumulated cash reserves on the Programme of Work to implement business system improvements. We are also aware that you are running a one-off operational deficit over 2019/20, with plans to return to break-even in 2020/21. We would like you to keep MfE informed of any significant changes or deviations in your projected budgets.

Accessible, timely and transparent decision-making for everyday New Zealanders and iwi/Māori

13. It is very important to us that the EPA's decision-making processes have high accessibility for everyday New Zealanders and iwi/Māori. Being able to demonstrate a proactive and transparent approach to notifying, consulting and sharing information with all stakeholders is critical to ensuring you remain a trustworthy institution. The experience for your customers, stakeholders and regulated parties should have a level of sufficient clarity and certainty from start to finish. Demonstrating accessibility also includes holding hearings and hui in locations that facilitate the participation of affected parties and communities, and ensuring Decision-Making Committees (DMCs) implement this.

14. As part of ensuring a robust marine consent process, we encourage the EPA to thoroughly test the conclusions of ecological assessments contained within consent applications. We expect DMCs to include members with appropriate technical and legal expertise who are accredited through the RMA Making Good Decisions Programme or similar. We also expect that the EPA will run an effective and open process to provide a bigger pool of capable candidates for DMCs.
15. Additionally, where possible we encourage the EPA and its various decision-making bodies to make an effort in arriving at conclusive decisions in a timely fashion where timeframes may not exist in statute. This could include getting upfront agreement on timeframes when establishing a decision-making body or developing operational policies to limit delays.

Contributions to all-of-government responding to Climate Change Commission advice

16. Government has signalled a commitment to delivering a just transition toward a low-emissions, climate resilient economy. The Climate Change Commission will deliver advice to Government, as required under the Climate Change Response Act 2002, which will require an all-of-Government response. As appropriate within the scope of your legislative roles and responsibilities, we expect you to work with MfE and other agencies in contributing to this response.

Operational expectations

17. The following expectations relate to the specific legislative functions the EPA performs. We expect that you will continue to play an active role in contributing the EPA's operational and science expertise to policy development led by MfE and other key partners. These include WorkSafe NZ, the Ministry of Business, Innovation and Employment, and the Ministry for Primary Industries.

Obligations under international chemical and waste treaties and chemical reassessments

18. We thank you for the operational and technical support the EPA has provided to date to enable New Zealand to meet its obligations under international chemical and waste treaties. We expect the EPA to continue to contribute timely technical and operational advice and support to policy development by MfE to implement these treaties.
19. We are aware that the implementation of the international obligations under the Basel Convention and the Minamata Convention will mean an additional or expanded function for the EPA. We expect you will work closely with MfE and the Treasury to seek funding for additional functions or cost recovery mechanisms to ensure these expanded functions are in the operational budget.
20. We expect to see good progress during the year on chemical reassessments.

Supporting policy development on Pollutant Release and Transfer Register

21. We agree with the recommendation by the Parliamentary Commissioner for the Environment to consider the merits of establishing a Pollutant Release and Transfer Register (PRTR) in New Zealand for better environmental reporting and decision-making.
22. We understand the EPA and MfE are actively considering differing aspects of a PRTR that addresses hazardous substances and hazardous waste. We expect both agencies to collaborate to ensure a system that covers both hazardous substances and hazardous waste is considered.

Continuing your productive working relationships with Emissions Trading Scheme agencies

23. You also have an important operational role in the Emissions Trading Scheme (ETS). We expect the EPA to continue its productive working relationships with relevant agencies to ensure the integrity of the Emissions Trading Register is maintained and ready for any major updates.
24. We invite you to meet with us at any stage if you wish to discuss our expectations for the EPA.

Yours sincerely



Hon David Parker
Minister for the Environment



Hon Eugenie Sage
Associate Minister for the Environment