



2021-B-07581

Julie Hardaker  
Chair  
Environmental Protection Authority  
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Dear Julie

### **Letter of Expectations for the 2021/22 financial year**

1. We are writing to convey our expectations of the Board of the Environmental Protection Authority (EPA) to inform your Statement of Performance Expectations for 2021/22.

### **Context and Government-wide priorities**

#### *COVID-19 response*

2. The Government this term has two overarching priorities on responding to COVID-19: to drive our economic recovery, and to continue our health response to keep New Zealanders safe from the virus. The EPA holds an important role working alongside other government agencies to ensure that COVID-19 vaccines being introduced to New Zealand are safe and effective. We encourage the EPA to keep an open and transparent dialogue with other government agencies and the public by sharing expertise and credible advice on COVID-19 vaccines where appropriate.
3. Prompt decisions on COVID-19 vaccines are critical to achieving these overarching priorities, and we expect the EPA to work swiftly where it can with updates on progress if relevant.

#### *General Government-wide expectations*

4. The Enduring Letter of Expectations to all statutory Crown entities from the Ministers of Finance and State Services remains in effect, and is 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 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*

5. We note your timely reporting last year outlined the steps taken to mitigate and respond to any significant regulatory risks, in light of the 2019 Review of the New Zealand Transport Agency's regulatory performance. We expect continuing performance reports looking at how regulatory leadership supports a proactive risk management culture being encouraged and maintained throughout the organisation. Regulatory blind-spots and gaps should be openly and regularly discussed, with appropriate mechanisms in place to escalate and deal with significant issues.
6. With the establishment of the Compliance, Monitoring and Enforcement (CME) Business Group within the EPA, we expect you to develop comprehensive CME strategies, operational policies and plans across your legislative functions and for the resource management system to support and improve regulatory practices. Such strategies, policies 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.

7. The decision to overhaul the Resource Management Act 1991 (RMA) in the coming years will no doubt transform how CME activities are undertaken for the environment. The performance of the EPA's RMA Enforcement Unit in working collaboratively and productively with local government will be of particular interest and scrutiny. The issues and the operational perspectives of the Unit and the EPA on CME activities will also help inform how new and improved policy and practices will be shaped under the Acts replacing the RMA. We encourage the EPA to continue providing the Ministry for the Environment (MfE) with its operational expertise and insights to help develop CME statutes that are fit for the future.

#### *Ensuring effective governance*

8. We note that the EPA Board has been undertaking initiatives to maintain effective governance practices and training to stay competent in discharging its statutory and regulatory functions. With an expanded Crown Entity Performance team, MfE is happy to assist you on governance matters, any further training, or enquiries about strategic environmental matters. Board performance will be a standing item of discussion in your quarterly meetings with Minister Twyford, and it would be useful to maintain a conversation on how the Board is adding value to the organisation.
9. Board evaluations help improve performance and contribute to advice to responsible Ministers on Board composition. You advised us that you intend to conduct another Board self-assessment prior to the end of the 2020/21 financial year. We would appreciate you sharing the findings with MfE and ourselves.
10. We expect you to continue regular engagement with MfE, as our lead advisors and provide them with oversight of your operational and financial performance.

#### **Other ongoing matters**

##### *Maintaining fiscal responsibility*

11. We note that the EPA has not sought a bid for Budget 2021, with the intention to put forth bids in later Budget rounds. Before any subsequent Budget bids are developed, we would like to see MfE and the EPA working together to review your overall baseline of funding, with help from the Treasury where appropriate. As bids have been developed more collaboratively between agencies in recent years, we encourage the EPA to proactively consider pooling together its bids with other agencies in focused packages that scale and align with each other. This approach aligns with the approach of working across the public sector, as outlined in the Enduring Letter of Expectations.

##### *Maintaining systems and infrastructure by carefully managing the Programme of Work*

12. You have been running a deficit budget model in recent years to expend your accumulated cash reserves on the Programme of Work to implement business system improvements. There was also the goal of returning the temporary one-off deficit in the EPA's operational budget to break-even by 2020/21. As it will still take time to complete all the projects under the Programme of Work, we expect you to keep MfE informed of your continued plans to utilise a deficit budget model approach, and any significant implications for the EPA's financial position.

##### *Accessible, timely and transparent decision-making for New Zealanders*

13. It remains important to ensure that the EPA's decision-making processes are highly accessible to New Zealanders and iwi/Māori in particular. The design and implementation of these processes should consider the participatory needs and experiences of your various customers, stakeholders and regulated parties. We are pleased to hear about progress being made to implement the Mātauranga Māori Framework to train EPA decision makers to confidently consider mātauranga alongside other types of evidence. We welcome further updates on how the Framework is being applied and its reception with stakeholders.

14. We continue to encourage the EPA and its decision-making bodies to arrive 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 response to Climate Change Commission advice and running a carbon-neutral organisation*

15. The Climate Change Commission has recently released its draft report on how New Zealand can respond to climate change issues. As appropriate within the scope of your legislative roles and responsibilities, we expect you to continue working with MfE and other agencies in contributing to this response, including on the effective delivery of the Emissions Trading Scheme (ETS).
16. The Carbon Neutral Government Programme (CNGP) will require public sector agencies to measure and publicly report on their emissions and to offset any they can't cut by 2025. We note that the EPA has joined the Toitū carbonreduce programme to monitor and reduce carbon emissions. We expect that any of your existing commitments to reduce your emissions will align with the requirements of the CNGP, and that you will keep in touch with officials at MfE overseeing the programme on such matters.

**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.

*Cost recovery improvements*

18. The MartinJenkins cost recovery review of the EPA made a number of recommendations that could increase the third-party revenue of your business functions. Alongside any upcoming legislative amendments for EPA cost recovery, improving the time recording practices of staff for cost-recoverable activities can recoup a significant and fair amount. We expect the EPA to carry out internal improvements in staff time recording to enable greater recovery of costs from third parties.

*Providing regular information on timing for chemical assessments and reassessments processes*

19. The timing of certain chemical assessments and reassessments has become a point of interest for some of your stakeholders. It would be useful to see the EPA develop methods to provide assessment and reassessment participants with greater certainty on how long a particular process will take to complete, as well as regular updates on the progression of that process.

*Hazardous substances modernisation*

20. It is good to see that the EPA is completing major milestones across its hazardous substances modernisation projects, including the seventh revision of the Globally Harmonised System for classifying chemicals coming into effect from 30 April 2021 and the new Hazardous Substances Database. We would be interested in receiving any progress updates on the EPA's Chemical Map project, and ask that you share the details with MfE officials.
21. We appreciate the ongoing support that the EPA is providing to MfE with regard to the work underway to amend the Hazardous Substances and New Organisms Act 1996 to improve the processes for assessing and reassessing hazardous substances.

*Review report on double-stranded RNA (dsRNA)*

22. We note that a review report on a previous EPA decision regarding dsRNA is still due to be completed. In July 2019 it was agreed by the EPA that this review report would be undertaken by a decision-making committee of the EPA. We expect that this decision-making committee will complete the review report on dsRNA in a timely manner.

*Continuing to provide support to MfE for decommissioning plans*

23. We would like to thank the EPA for the operational and policy support provided so far to MfE in developing the draft Exclusive Economic Zone and Continental Shelf (Environmental Effects–Decommissioning Plans) Regulations. We expect this support to continue and extend to the development of the related guidance.

*Delivery of new functions under the COVID-19 Recovery (Fast-track Consenting) Act 2020*

24. We thank you for the operational support the EPA is providing to the panel convenor and the expert consenting panels convened under the new fast track consenting legislation. We expect the EPA to continue to contribute timely operational advice and support to applicants, the panel convenor and expert consenting panels convened under this function in order to contribute to the Government's economic recovery efforts.

*Implementing changes to the Emissions Trading Scheme compliance regime*

25. Significant changes to the ETS compliance regime came into force on 1 January 2021, with work now underway towards implementing infringement offences in regulations. We appreciate the work undertaken by the EPA in preparing for these changes, and note the heightened public scrutiny that may fall on ETS compliance activity over the coming year.

*Continuing your productive working relationships with Emissions Trading Scheme agencies*

26. You also have an important operational role in the 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. In particular, the implementation of ETS auctioning has required updates to the Emissions Trading Register that you have worked closely with MfE and the auction operator, NZX Limited, to implement. As auctioning progresses and matures, we look forward to the development and embedding of auctioning processes, as well as any other updates that might be required.

27. The EPA's input and operational perspective to proposed legislative change relating to the ETS is highly valued and we look forward to receiving timely feedback of the same high quality.

*No surprises*


28. We appreciate your commitment to making the Crown entity oversight process effective and maintaining a close no-surprises relationship with our offices and MfE. We expect to be informed well in advance of any materials or significant events related to the EPA, positive or negative. Examples include but are not limited to: any risks to financial forecasts, media coverage on critical issues relating to EPA activities or on which we could be asked to express a view.

29. 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 Phil Twyford  
**Associate Minister for the Environment**