

Summary of Submissions
on the
Establishment of a Tasmanian EPA

April 2007

Environment Division
Department of Tourism, Arts and the Environment



Summary of submissions on the establishment of a Tasmanian EPA

18 submissions were received. No submissions categorically opposed the concept of the establishment of an EPA. Most submissions, whether they were supportive of the proposal in its current form, or opposed to, or sceptical about the current form, raised some concerns about the proposed changes.

1. DPIW [Secretary – former Chair, EMPC Board]

Supports the establishment of an EPA.

Role of EPA:

- Supports proposed framework, but
 - Acknowledges continued link with Environment Division will detract from the perception of independence.
 - Is concerned that the policy advice-giving role will only increase and complicate the stream of “advice” that comes to the Minister.
- Supports removal of Ministerial call-in power.

Constitution of Board:

- Supports appointment of independent chair.
 - Considers that the Director’s role as policy adviser to the Secretary and to the Minister – from a Divisional perspective, may compromise that same policy-giving role in the directorial role as a Board member.
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2. Central Coast Council

Supports the establishment of an EPA but stressed the need for adequate resources and funding.

3. Private Citizen [Mr. A Churchill - Warrane]

Sceptical about the establishment of an EPA unless it addresses noise pollution in a much more aggressive and effective manner than the current administration.

Stresses the need for –

- Enforcement of EMPCA by EPA, Department and local govt to be made mandatory.
- Effective response to community concerns about noise.
 - Critical of perceived lack of response [to date] to community calls for change under the recent EMPCA reviews.
 - The EPA must be responsible for taking action, or ensuring that action is taken, in response to pollution and nuisance complaints.

- Real transparency and community accountability
 - Board Minutes and all decisions should be posted on the Internet
 - Requests for information should not be hobbled by FOI limitations.
- The EPA liaise with all other Departments that have links with noise management to produce acceptable improvements [DTAE, HCS, LG(DPAC), Tasmania Police, Licensing authority, Justice, Treasury].
- Dog noise to be addressed by EPA under EMPCA.
- Without effective – and mandatory – enforcement of the existing provisions of EMPCA, the establishment of an EPA will achieve nothing.
 - Other jurisdictions having EPA's have also not seriously or successfully tackled the nuisance noise issues

Constitution of Board:

- Any EPA Board must include a professional medical representative with experience in noise-related health issues.
 - Considers this to be vital to allow community concerns re environmental health effects to receive appropriate consideration.

Recommends:

- Detailed examination of other EPA models.
 - Should focus on their effectiveness, particularly how they deal with nuisance noise and the associated environmental health issues.

4. Private Citizen [L. Brisden – South Hbt]

Sceptical about the establishment of an EPA unless it addresses noise pollution in a much more aggressive and effective manner than the current administration. Stresses the need for forestry and marine farming to be brought under the jurisdiction of the EPA.

Role of EPA:

- Does not support Environment Division serving the EPA.

Constitution of Board:

- Supports appointment of independent Chair.
 - Expresses concern over current Govt representation (particularly the Departmental Secretary) on EMPCA Board.
- Any EPA Board must include a professional medical representative
 - Considers this to be vital to allow community concerns re environmental health effects to receive appropriate consideration.

5. Department of Economic Development

Supports the establishment of an EPA but considers current proposal requires careful consideration to ensure that the EPA functions to maintain continued sustainable economic growth.

Role of EPA:

- Need to clearly differentiate between regulatory and policy functions.
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6. Launceston Environment Centre/Tasmanian Conservation Trust Inc. [joint submission]

Supports the establishment of an EPA but considers current proposal should be approached in a staged manner, widening the scope to cover a broader range of environmental management-environment protection issues.

Role of EPA:

- Supports removal of Ministerial call-in power.
- Supports the continued links with the RMPS.
- Re-badging of Environment staff as EPA support should only be a short term measure, with a view to longer term independent resources for the EPA to eradicate confusion over policy and regulatory responsibilities.

Constitution of Board:

- Supports proposal for independent chair.
 - However, considers the two government positions should be opened to independent membership.
 - Considers Board's decision-making mechanisms need clarification.

Recommends:

- Detailed examination of environmental management functions of other bodies [Conservation Assessment – DPIW, FPA, MRT etc] to decide if they should be taken up by an EPA.
 - Benefits would include minimising duplication.
 - Detailed examination of other EPA models – within 12 months.
 - Should be done in tandem with the development of a long-term vision for appropriate objectives for an independent EPA.
 - Detailed examination of roles of RPDC and EPA, and possible rationalisation, over medium term.
 - Marine Farming activities should be taken up by the EPA in the medium term.
 - Longer term – the EPA should take over the assessment of forestry activities, and eventually, the EPA should take on the assessment of POSS's from RPDC.
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7. Environmental Defenders Office [Tas] Inc.

Supports the establishment of an EPA but does not support the current proposal – considers it essentially re-badging of the current Board, and the changes as merely “window dressing”.

Stresses the need for any proposal to be seen as part of a wider “move forward” in environmental management in Tasmania.

- Proposal should involve a more expansive examination of alternative models, and to integrate any changes with the recommendations of the EMPCA statutory review.
- A wider examination should include more detailed discussion of the objectives of a longer-term vision of an independent EPA.
- Stresses need for clear documentation of the roles of the Environment Division, in the context of an EPA.

Role of EPA:

- Supports removal of Ministerial call-in power.
- Supports clarification of roles of policy advice-giver, and developer of “strategic policy” advice.
- Re-badging of Environment staff as EPA support should only be a short term measure, with a view to longer term independent resources for the EPA to eradicate confusion over policy and regulatory responsibilities.

Constitution of Board:

- Supports proposal for independent chair.
- Recommends full time position to allow adequate attention to role as promoting the public face of the EPA, and to oversee development of innovative environment protection approaches.

Recommends:

- Detailed examination of environmental management functions of other bodies [FPA, MRT etc] to decide if they should be taken up by an EPA. Benefits would include minimising duplication, improving consistency of decisions, and dispelling perceptions of “special treatment”.
 - Detailed examination of other EPA models. Should be undertaken in tandem with the development of a long-term vision for appropriate objectives for an independent EPA.
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8. Private citizen: [Mr P. Simms OAM]

Supports the establishment of an EPA

Stresses the need for –

- Adequate resources and funding
- Continued public consultation as proposal develops.

Role of EPA:

- Supports the continued links with the RMPS.
- EPA should deliver on Noise and Air pollution policies, and coordinate finalising of Coastal and Land Use Policies.
- EPA should also initiate development of polices addressing off-road recreational vehicle use and the protection of heritage values [indigenous/non-indigenous].

Constitution of Board:

- Supports restructuring, provided it gets adequate resources.

9. Local Government Association of Tasmania

Supports the establishment of an EPA.

Stresses the need for –

- Adequate funding.
- Some professional staff to support the EPA Board – independent of Departmental affiliation.
 - Considers that the re-badging of Departmental staff as officers of the EPA will not eradicate confusion over policy and regulatory responsibilities.

Role of EPA:

- Supports the role of the EPA in enhancing the objectives of the RMPS.
- Supports the need to raise the Board's profile as an independent regulator.
- Supports the clarification of the functions and powers of the Board, particularly in relation to the provision of policy advice to government.

Constitution of Board:

- Supports appointment of independent Chair.
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10. Forest Industries Association of Tasmania

Does not object to the establishment of an EPA, however, the Position Paper does nothing to suggest the establishment of an EPA will reduce the regulatory burden or the complexity of approvals processes faced by the forest industry.

Stresses the need for –

- Independence from government – and the Department
 - Would not support the concept if it merely provides a cosmetic perception of increased independence.
 - Independence should be enhanced by genuine separation of the Board and the regulatory functions of the Department. This can be achieved by denying voting rights on the Board to the Secretary and the Director, while allowing them to provide advice to the Board.

Role of EPA:

- Supports the replication of the existing role and function of the Board.
- Any redefining of the functions should be undertaken in close consultation with industry.
 - Recommends introduction of mandated consultative processes with industry, including the development of a Charter of Operations.
- Recommends the strengthening of emphasis on the facilitation of development.
 - The Board's decision-making processes need to more closely examine the social and economic costs of Board decisions on development proposals.
 - Does not support the requirement to use the precautionary principles in decision-making.

- Supports the increased emphasis on community communication regarding the roles and functions of the Board.

Constitution of Board:

- Supports appointment of members, independent of government, and who have practical expertise in industry.
 - This will ensure that the real impacts of decisions on industry are taken into account.
 - Does not support the proposed “even-number” Board. Prefer 5 members appointed by Governor.
 - Does not support a casting vote being available to the Chair – this acts as a “second vote” for this member.
 - Does not support the need for the Chair to have expertise in public administration.
 - Would prefer requirement for expertise in the private sector.
 - Recommends broadening of criteria to allow consideration of other expertise
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11. Private Citizen [confidentiality requested]

Sceptical about the establishment of an EPA unless it addresses noise pollution in a much more aggressive and effective manner than the current administration

Stresses the need for –

- Independence from government
 - Points to the demonstrated independence of RPDC as being the only effective independent body in the State.
- Forestry and marine farming to be brought under the jurisdiction of the EPA;
 - Exclusion of these industries – and non-forest vegetation management – undermines the whole concept of an EPA.
- Effective response to community concerns.
- Critical of perceived lack of response [to date] to community calls for change under the recent EMPCA reviews.
- The EPA must be responsible for taking action, or ensuring that action is taken, in response to pollution and nuisance complaints, including level 1 [or complaints to local govt].
- The EPA should set up a register of all environmental [nuisance and pollution] complaints.
- Real transparency and community accountability.
- Requests for information should not be hobbled by FOI limitations.
- Draft legislation must be released for community consultation.
- The EPA must be funded to support research, including into environmental health effects.

Role of EPA:

- Ensure an emphasis on “Protection” of the environment, including and especially protection of the human noise environment.
- The EPA to act on behalf of the community in follow-up and prosecution of noise offences reported by the community.
- The EPA to act to protect the community by rigorous assessment of development proposals – regardless of the “importance” of the proposal.
- The EPA to be responsible for all three levels of activity [not just level 2’s]
- Board Minutes and all decisions should be posted on the Internet.
- The role of EPA members in relation to EPP Review Panels needs clarification.

Constitution of Board:

- Supports appointment of independent Chair.
- Expresses concern over current Government representation (particularly the Departmental Secretary) on EMPCA Board.
- Considers local government failure to enforce EMPCA negates any need for it to be represented on the EPA Board.
- Board membership should be on merit, and not mandated in terms of gender representation.
- Any EPA Board must include a professional medical representative.
 - Considers this to be vital to allow community concerns re environmental health effects to receive appropriate consideration.

Cost -benefit

- Concerned the Position Paper fails to detail costs of establishment, or whether Board members will be salaried appointments.
 - Considers that if members are to be salaried, their appointments should be open to public scrutiny, and be made on merit, and ensure they have appropriate expertise.

12. Tasmanian Greens

Supports the establishment of an EPA but does not support the current proposal or Discussion Paper – considers it essentially re-badging of the current Board, and the changes as merely perception, rather than substance.

Stresses the need for –

- Independence from government.
 - Expresses concern about the [unexplained] need to “clarify” the policy development role of the new Board
- Forestry and marine farming to be brought under the jurisdiction of the EPA.
 - Exclusion of these industries – and non-forest vegetation management – undermines the whole concept of an EPA.
- Forestry & marine farming should also be brought under LUPAA.

Constitution of Board:

- Supports appointment of independent Chair.
 - Expresses concern that Chair should also be “independent” of industry links.
 - The independent appointment should be acceptable to the community.
 - Does not support the current proposal or Discussion Paper – considers it essentially re-badging of the current Board.
- Recommends additional member with specific conservation expertise, &/or the existing member with conservation, environment protection, NRM, waste management, or environmental health is conservation-focussed.

Board procedures:

- Clarification needed of clear decision-making process for “tied vote”.
- Clarification needed on whom the annual report will be presented to – Minister or Parliament, and assurance that the report will be tabled.

Recommends:

- Re-write detailed Discussion Paper – to allow proper community debate,
- Paper should propose that the EPA should regulate forestry and marine farming,
- EPA should be self-sufficient, with its own professional staff and administration – not linked to a Department.
 - Paper is contradictory – Departmental staff should not be called EPA staff (this is semantics).
 - Professional advice should be objective, not a “whole of agency” perspective.
 - Independence from a Department will avoid supporting industry conflicts [eg – tourism needs vs conservation in DTAE].
- EPA should be independently funded statutory authority.
- Self funding and independence from a Department will allow for self determination of priorities, and uninhibited approaches to Treasury.
- Discussion Paper is at odds with recent statements about the benefits of an independently funded EPA [SA EPA -2004].
- Draft legislation must be released for community consultation.

13. Tasmania *Together* Progress Board

Does not object to the proposal.

Role of EPA:

- Should promote the objectives of the RMPS, and in so doing, contribute to the achievement of Goals 11 and 12 of the Tasmania *Together* Goals, which stress the need to value and protect the built and natural heritage, and to sustainably manage our natural resources.

14. Tasmanian Farmers and Graziers Association

Does not object to the proposal.

Role of EPA:

- Should remain limited to the current focus of EMPCA

Constitution of Board:

- Does not object, provided it is limited to changes to the Board structure.

Powers:

- Should remain limited to the current focus of Environmental Management and Pollution Control Act 1994.
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15. Environment Tasmania Inc

Newly formed (December 2006) group representing various conservation groups – Considers itself Tasmania’s conservation “council”.

Supports need for EPA but does not support the current proposal.

Stresses the need for –

- Independence from government, and freedom from political interference to vigorously enforce environment protection laws.
- Adequate resources, including for research and enforcement.
- Forestry and marine farming to be brought under the jurisdiction of the EPA.
- The EPA to be open and accessible, to provide the base for public education, and to act as a conduit for community engagement in environment protection and conservation issues.
- The EPA to act on behalf of the community in follow-up and prosecution of offences reported by the community.

Role of EPA:

- Wants its powers to cover all environmental matters, not just pollution control (threatened species, land clearing, greenhouse, pesticide-herbicide regulation, feral-introduced flora-fauna control, coastal –marine protection, building-development permits).
- Cites Qld EPA as model having responsibility for all major areas of environment protection, including parks & wildlife.
- Stresses need for strong legislative powers to enable swift and effective enforcement.

Constitution of Board:

- Supports larger Board [10-12], including
 - community representation,
 - conservation NGO representation,
 - independent experts in conservation and environment protection.
- Suggests Board should not include industry representatives who may have real conflict of interest.

Board procedures:

- Expresses concern that there be a clear decision-making process – not just “decision by consensus”.

16. Private citizen [Mr B Collin]

Supports the establishment of an EPA but is sceptical about its “independence”.

Role of EPA:

- Does not support the re-badging of the Environment Division – it undermines the perception of independence.

Constitution of Board:

- Supports proposed composition.
 - Supports proposal for independent chair.
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**17. The Hon Gail Gago MLC
Minister for Environment and Conservation,
Government of South Australia**

Provided background information relating to the establishment of an EPA in South Australia, subsequent review of the establishing Act and recent amendments, in the context of environmental management systems that are independent and transparent.

18. BP Australia Pty Ltd

Supports the proposal.

- Would like to see a review of penalties under the Act.
- Any new Tasmanian EPA structure should consider a review of planning powers, in particular the Local Council’s planning authority under the Land Use Planning and Approvals Act 1993 (LUPAA). This should include a review of how the new EPA may impact upon decisions made by local councils under LUPAA.