

# **Corporate Governance Statement**

## **Board of the Environment Protection Authority**

Corporate Governance Statement  
Board of the Environment Protection Authority

For further information please contact:

Information Officer  
Environment Protection Authority  
GPO Box 2607  
Adelaide SA 5001

Telephone: (08) 8204 2004  
Facsimile: (08) 8124 4670  
Free call (country): 1800 623 445  
Website: <https://www.epa.sa.gov.au>  
Email: [epainfo@sa.gov.au](mailto:epainfo@sa.gov.au)

ISBN 978-1-921495-23-6

October 2024

© Environment Protection Authority

This document may be reproduced in whole or part for the purpose of study or training, subject to the inclusion of an acknowledgment of the source and to it not being used for commercial purposes or sale. Reproduction for purposes other than those given above requires the prior written permission of the Environment Protection Authority.



## EPA FOR RECONCILIATION

The EPA acknowledges and respects the Aboriginal peoples of South Australia as the first peoples and nations of this State. We recognise them as the traditional custodians of land and waters in South Australia and that their spiritual, social, cultural and economic beliefs are of ongoing importance today. We recognise that they have made, and continue to make, a unique and irreplaceable contribution to the State.

*Artwork: 'Caring for Country', courtesy of Arrernte man Scott Rathman, for the EPA.*

# Contents

<b>Abbreviations</b>	<b>1</b>
<b>Overview</b>	<b>2</b>
<b>1 Introduction</b>	<b>3</b>
<b>2 Functions and purpose of the EPA</b>	<b>4</b>
<b>3 Role and function of the Board</b>	<b>5</b>
Board role	5
Board Committees	5
Stakeholder engagement	5
<b>4 Membership and performance of the Board</b>	<b>6</b>
Board membership	6
Presiding Member	6
Term of appointment	6
Members' responsibilities	7
Proceedings of the Board	7
Decision making	8
Public liability	8
Performance review	8
<b>5 Governance roles of the Board</b>	<b>10</b>
Governance approach	10
Risk management	11
Delegated responsibility	12
Matters reserved for the Board	12
<b>6 Relationship between the Board and the Minister for Climate, Environment and Water</b>	<b>13</b>
<b>7 Relationship between the Board and the EPA Chief Executive</b>	<b>14</b>
Role of the Chief Executive	14
Relationship between the Board and the Chief Executive	14
EPA staff	15
<b>8 Ethics, values and conflicts of interest</b>	<b>16</b>
Board values	16
Conflict of interest	16
<b>9 Public and stakeholder consultation</b>	<b>18</b>
Engagement	18
Roundtable conference	18
<b>Appendix 1 – Member's code of conduct</b>	<b>19</b>
<b>Appendix 2 – Schedule of matters reserved for the Board</b>	<b>21</b>



## Abbreviations

<b>Agency</b>	the administrative unit established under the <i>Public Sector Act 2009</i> which provides services to the Authority
<b>Australian Standard</b>	AS8000–2003: Good governance principles
<b>Authority</b>	the Environment Protection Authority established under Division 1 of Part 3 of the <i>Environment Protection Act 1993</i>
<b>ESD</b>	ecologically sustainable development
<b>EPA Board, or the Board</b>	Board of the Environment Protection Authority established as the governing body of the Authority under Division 1 of Part 3 of the <i>Environment Protection Act 1993</i>
<b>EPA</b>	the Environment Protection Authority established under Division 1 of Part 3 of the <i>Environment Protection Act 1993</i>
<b>EP Act</b>	<i>Environment Protection Act 1993</i>
<b>Minister</b>	the Minister for Climate, Environment and Water in South Australia
<b>PS Act</b>	<i>Public Sector Act 2009</i>
<b>RPC Act</b>	<i>Radiation Protection and Control Act 2021</i>

## Overview

The Corporate Governance Statement of the EPA Board details the governance arrangements for the Environment Protection Authority (EPA).

The EPA is a statutory authority, with a Board responsible for the carriage of the *Environment Protection Act 1993* (EP Act). The Board is the governing body of the EPA and comprises between seven and nine members, appointed by the Governor, whose skills, knowledge and experience collectively meet the requirements of Board membership as defined in the EP Act. One member is appointed as Presiding Member of the Board by the Governor. The Board delegates specified powers to others to carry out its functions under the EP Act.

In addition to the EPA, there is also an Agency created under the *Public Sector Act 2009* (PS Act), which is managed by a Chief Executive. The EP Act allows the EPA to make use of the services of the Agency's employees and of its facilities.

Through the Chief Executive, the Board is able to make use of the resources of the Agency to carry out the policies and decisions of the Board and achieve the aims of the [EPA Strategic Directions](#). These Directions are linked to the priorities of the South Australian Government and provide a strategic framework for EPA directorates.

This statement forms part of the governance framework for the EPA, which comprises relevant documents including external sources of guidance and internal procedures.

## 1 Introduction

The Environment Protection Authority (EPA) is South Australia's primary environmental regulator, responsible for the protection of air and water quality, and the control of pollution, waste and noise through the administration of the *Environment Protection Act 1993* (EP Act). The Agency is also responsible for radiation protection and control through administration of the *Radiation Protection and Control Act 2021* (RPC Act).

**The EPA's purpose is to protect people and the environment from harm and support sustainable development for our current and future generations.**

## 2 Functions and purpose of the EPA

The EPA's functions are defined in section 13 of the EP Act. In summary, these are:

- administering and enforcing the EP Act, and advising the Minister on administration of the EP Act and of other legislation that may affect the environment
- preparing draft environment protection policies, contributing to National Environment Protection Measures, regularly reviewing the effectiveness of policies, regulations, measures and practices, and advising the Minister
- facilitating the pursuit of the Objects of the EP Act by government, the private sector and the public, by advising on, and assisting with, the development of best environmental management practices
- regulating, controlling and/or monitoring activities through an authorisation system for controlling and minimising pollution and waste; and by investigation, compliance assessment, environmental monitoring and evaluation, and enforcement.

The EPA's core business is to manage and influence human activities to protect, restore and enhance the environment, including human well-being. Key programs and activities are:

- licensing (authorisations)
- assessment of development applications referred under the *Planning, Development and Infrastructure Act 2016*
- enforcement
- environment protection policies (development and review)
- National Environment Protection Measures
- general policy advice to government
- environmental monitoring and evaluation
- advocacy programs: ecologically sustainable development and pollution prevention
- community engagement and behaviour change roles.

Radiation protection and control activities are undertaken by the Agency in accordance with the *Radiation Protection and Control Act 2021* (RPC Act). Advisory and regulatory functions are the role of the Radiation Protection Committee and the Minister for Climate, Environment and Water, who delegates administration of the RPC Act to the Chief Executive. The EPA Board is not responsible for any aspect of the administration of the RPC Act.

The Board approves the *EPA Strategic Directions* which outline the organisational goals, strategies and priorities of the EPA in undertaking its functions under the EP Act. These Directions are linked to the priorities of the South Australian Government and provide a strategic framework for EPA directorates. The annual [EPA Corporate Plan](#) and branch business plans are developed by Executive and branch managers to reflect these priorities.



### 3 Role and function of the Board

#### Board role

The Board is the governing body of the EPA for matters related to the EP Act and provides strategic direction, develops environmental policy and monitors performance.

The Board is a statutory body with expertise in:

- environment protection and natural resource management
- business and industry
- environmental conservation and advocacy
- climate change adaptation and mitigation
- waste industry
- environmental law
- local government
- management.

Its statutory role is to provide strategic direction, and to make key decisions on significant environmental issues under the EP Act.

Board members are appointed by the Governor for their practical knowledge and commitment to protecting South Australia's environment.

#### Board Committees

Section 17 of the EP Act provides that the Board must establish committees and subcommittees as required by the Regulations and may establish others as it thinks fit. Committees and subcommittees are established with the purpose of advising the EPA on any aspect of its functions or assisting it in the performance of its functions.

The Board appoints members to each committee, which may, but need not, include Board members. The procedures observed in conducting the business of a committee may be prescribed by regulation or determined by the Board. If not defined by regulation or by the Board, procedures are determined by the committee itself.

The Board also establishes, from time to time, working groups of Board members as required to assist in the development of policy.

#### Stakeholder engagement

The Board has a significant role in consultation and engagement with key stakeholders as outlined under part 9 of this statement.

## 4 Membership and performance of the Board

### Board membership

Environmental issues are often complex and multi-dimensional. The breadth and depth of expertise represented on the Board provides capacity to make prudent decisions on these issues. The EP Act specifies the number of Board members (between seven and nine), and the attributes possessed collectively by the Board.

These attributes are:

- qualifications and experience relevant to environmental protection and management or natural resources management
- practical knowledge of, and experience in, industry, commerce or economic development
- practical knowledge of, and experience in, environmental conservation and advocacy on environmental matters on behalf of the community
- practical knowledge of, and experience in, climate change adaptation and climate change mitigation
- practical knowledge of, and experience in, the reduction, reuse, recycling and management of waste or the environmental management industry
- legal qualifications and experience in environmental law
- qualifications and experience relevant to management generally and public sector management
- practical knowledge of, and experience in, local government.

The EPA Chief Executive is a member of the Board ex officio.

### Presiding Member

One Board member is appointed as Presiding Member of the Board by the Governor and is responsible for chairing meetings and promoting the smooth functioning of the Board. The role of the Presiding Member is to lead the Board. The Presiding Member is both the leader and the servant of the Board, and the Board has a collective and collegial responsibility for corporate governance obligations.

The Presiding Member ensures that the Board restricts itself to discussing matters relevant to its functions, and that its policies and decisions are clearly expressed and communicated to the Chief Executive. The Presiding Member is the spokesperson for the Board in conveying to the Minister any advice which the Board has determined to proffer on the administration and enforcement of the EP Act and other environmental legislation.

Section 14B(3b) of the EP Act provides that the Governor may also appoint a Board member as Deputy Presiding Member to preside over Board meetings in the absence of the Presiding Member.

### Term of appointment

The Governor appoints Board members for a term no longer than three years. Members may be re-appointed once a term of appointment expires. Grounds on which a member may be removed from office include misconduct, neglect of duty, and failure or incapacity to satisfactorily carry out the duties of Board membership.

The Board's operating procedures and protocols provide a detailed explanation of these requirements and how Board matters are administered.

New Board members receive a comprehensive induction package, which provides information about the structure, functions and activities of the EPA, policies and legislation that underpin the EPA's functions, and relevant administrative information.

## Members' responsibilities

Board members must act honestly, exercise reasonable care and skills, be diligent, and aware of and understand the fiduciary duties of their position.

This includes the duty to:

- act bona fide in the interests of the Authority
- exercise care, skill and diligence
- exercise any powers for the purpose for which they were conferred
- avoid conflicts of interest.

Board members acknowledge the need for the highest standard of corporate governance practices and ethical conduct by all members, employees and contractors.

The Board has endorsed a code of conduct (Appendix 1). This code is informed by the EP Act, *Public Sector Act 2009*, *Public Sector (Honesty and Accountability) Act 1995* and the *Code of Ethics for the South Australian Public Sector*.

The provisions of the *Public Interest Disclosure Act 2018* apply to EPA Board members and any disclosures under this Act will be managed in accordance with established agency policies and processes.

Board members are also public officers for the purposes of the *Independent Commission Against Corruption Act 2012* and consequently have reporting obligations in relation to corruption in public administration as outlined in the Office of Public Integrity's [Directions & Guidelines for Public Officers, Public Authorities and Inquiry Agencies](#).

## Proceedings of the Board

The Board must follow certain proceedings as detailed in section 16 of the EP Act, which include:

- The Board must meet at least eleven times each calendar year, or more frequently where necessary for the performance of its functions and must keep accurate minutes of its proceedings and make them available to all Board members.
- The Presiding Member will chair each meeting of the Board. Where the presiding member is absent the Deputy Presiding Member will chair. If both are absent at a meeting an appointed member of the Board, chosen by members present at the meeting, will preside.
- A quorum of the Board consists of one half the total number of its members (ignoring any fraction resulting from the division) plus one (subject to this provision the Board may act notwithstanding vacancies in its membership or a defect in appointment of a member).
- A telephone or video conference between members will be taken to be a meeting of the Board at which the participating members are present.

- A person who is not a member of the Board may be present during a meeting with the consent of the Board but not otherwise.
- Subject to the provisions in the EP Act, the Board may determine its own procedures.

EPA staff may be invited to attend Board meetings at the Board's discretion.

## Decision making

Each appointed member present at a meeting of the Board has one vote on a matter arising for decision and, if the votes are equal, the member presiding at the meeting may exercise a casting vote. The Chief Executive is not entitled to vote at a meeting of the Board.

A decision carried by a majority of the votes cast by the members present at a meeting is a decision of the Board.

A proposed resolution of the Board becomes a valid decision of the Board despite the fact that it is not voted on at a meeting of the Board if:

- notice of the proposed resolution is given to all members in accordance with procedures determined by the Board
- a majority of the members express their concurrence in the proposed resolution by letter, telegram, telex, facsimile transmission or other written communication setting out the terms of the resolution.

## Public liability

The EPA is a body corporate. It is capable of suing and being sued and holding, acquiring and dealing with real or personal property.

The community expects a high standard of ethical behaviour from the public sector, and to ensure that this expectation is met, public sector appointees operate under a framework of rules dealing with honesty and accountability. This framework is established by three Acts of Parliament:

- *the Public Sector (Honesty and Accountability) Act 1995*, which covers appointees' legal duties
- *the Criminal Law Consolidation Act 1935*, which covers criminal offences committed by public officers, and
- *the Public Sector Act 2009*, which covers immunity from civil liability.<sup>1</sup>

Board members may be removed from office for misconduct or other failure to satisfactorily carry out their duties. They are obligated to act honestly at all times and exercise a reasonable degree of care and diligence in performing their functions. Members may be liable for penalties if culpable negligence is demonstrated.

## Performance review

The Board undertakes an annual review of its performance at the end of each calendar year.

This includes an analysis of its effectiveness, governance responsibilities and achievement of strategic objectives.

---

<sup>1</sup> Honesty and accountability for members of government boards, Department of Premier and Cabinet @ <https://www.dpc.sa.gov.au/responsibilities/boards-and-committees/resources-and-publications/Boards-Committees-Honesty-Accountability-Policy.pdf>

It can incorporate evaluation of individual Directors and Board performance overall. The mechanisms to undertake this assessment will be determined by the Board and may include an external performance review.

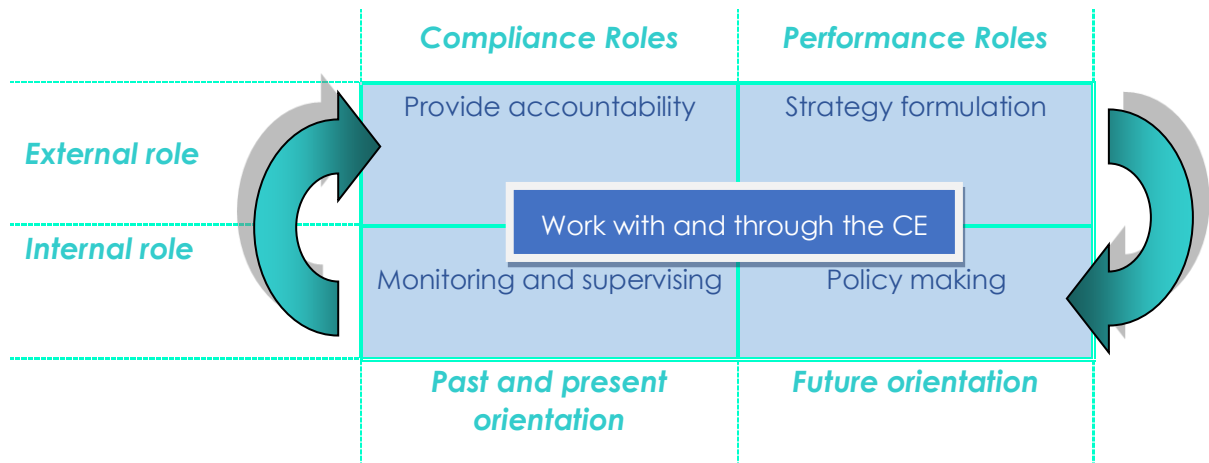
The Board must deliver to the Minister, before 30 September each year, the EPA's annual report in accordance with the PS Act and section 111 of the EP Act. Currently, this is the primary means by which the Minister evaluates the Board's performance.

## 5 Governance roles of the Board

The EP Act establishes the Board as the governing body of the EPA. Day-to-day operations and administration are delegated to the Chief Executive by the Board.

### Governance approach

The Board has adopted the following corporate governance model to support its key role and functions:



From: Tricker R 1994, *International Corporate Governance*, page 140

This model recognises that good corporate governance encompasses both conformance and performance roles, underpinned by effective risk management, and working effectively with and through the Chief Executive.

#### Strategy formulation

The Board's performance role comprises setting the strategic direction for the EPA. It is primarily about leadership but also encompasses elements of stewardship. Strategy defines how the expectations of stakeholders will be addressed and how public value will be delivered by the EPA. Stakeholders for the EPA include government, business and the community.

In this capacity the Board reviews management's plans and monitors management performance against those plans in achieving the established goals.

#### Policy making

The internal performance orientation of an organisation is evident in the policies and culture that translate the strategy into action. Policies developed by management and approved by the Board provide a mechanism for the Board to oversee enactment of its strategy.

In relation to key policy making to support its strategic role, as outlined in its Matters Reserved Schedule, the Board will:

- determine the form of the Public Register; and
- prepare draft environmental protection policies for forwarding to the Minister.

The Board also establishes, and annually reviews the effectiveness of, the EPA's internal control and risk management processes.<sup>2</sup>

### Monitoring and supervision

The role and function of the Board determines the level and extent of its internal role in this area. As outlined in part 7 of this statement there is a distinction between the role of the Board, which relates to administering and enforcing the EP Act, and the Agency Chief Executive, who is responsible for the leadership and general management of the Agency.

The Board monitors key activity that underpins the pursuit of the legislative objectives. It has also established a Risk Management and Performance Committee with broad terms of reference covering risk, performance and governance matters.

As part of its monitoring and supervising activity the Board has reserved for itself certain functions, including:

- establish, and annually review the effectiveness of, the EPA's internal control and risk management processes; and
- matters impacting on compliance with statutory and regulatory obligations.

### Accountability

The Board's conformance role is concerned with establishing effective accountability mechanisms for the EPA. Primary accountable for the EPA, as a state instrumentality is to the government as owner and funder; however, as a public authority there are also obligations to deliver on government policies and meet community expectations.

In accordance with section 111 of the EP Act, the EPA must report to the Minister by 30 September in each year, providing information about the administration of the Act during the previous financial year. The EPA annual report provides information about the way the EPA allocates funds from the government and includes an audited statement of income and expenditure of the Environment Protection Fund. The annual report also outlines any directions given by the Minister to the EPA during that year.

In its accountability capacity the Board also monitors financial performance and approves the end-of-year financial statements.

### Risk management

Effective risk management underpins the Board's governance approach.

The Board must consider both environmental and organisational risks in undertaking its roles under the EP Act. It must ensure effective management of identified strategic risks, and support risk management strategies implemented within the EPA.

The objectives of the EPA's risk management policy are to:

- establish a culture of risk management practice within all areas of the organisation to underpin the effective functioning of the EPA and support the delivery of its strategic objectives

---

<sup>2</sup> The Board's Risk Management & Performance Committee supports the Board in undertaking this work.

- provide assurance regarding the achievement of strategic objectives by reducing exposure to significant/material risks and maximising positive outcomes from potential opportunities
- integrate effective and timely risk management practices into all aspects of the EPA's operations
- assign management accountabilities and responsibilities at appropriate levels within the agency.

This policy was developed in consultation with the Risk Management and Performance Committee, Executive, Board and Agency staff.

## Delegated responsibility

Section 115 of the EP Act provides that the EPA may, by an instrument in writing, delegate any of its powers or functions under the EP Act, subject to conditions specified by the EPA. Many of the functions that the EP Act bestows upon the Board are, in practice, delegated to the Chief Executive. Section 115 also provides that powers and functions may be delegated to a public authority, person or committee of persons.

The Board has delegated the responsibility for the day-to-day activities to the Chief Executive and enabled him to delegate these further as required.

## Matters reserved for the Board

For clarity the Board has explicitly reserved a number of matters for decision<sup>3</sup> (Appendix 2).

The Board will review this list of reserved matters on a regular basis with the advice of the Risk Management and Performance Committee and may amend it at any time. Any changes to these matters require approval from the Board.

Where a matter reserved for the Board arises as a matter of urgency, such that it cannot be scheduled for the next regular meeting, a special out-of-session meeting of the Board may be convened via telephone or video conference. The same rules that apply to a validly constituted meeting of the Board will apply to such out-of-session meetings in relation to voting practices and quorum.

---

<sup>3</sup> This list in no way constrains the decision-making authority of the Board over any matter within its authority that it deems necessary.



## 6 Relationship between the Board and the Minister for Climate, Environment and Water

Section 11 of the EP Act provides that the EPA is a body corporate, with accompanying legal powers.

Despite its status, the EPA remains an instrument of the Crown and must work within the established framework of the South Australian government. As it conducts its functions on behalf of the government, the EPA relies on the incumbent government to provide resources to carry out its functions and promote the Objects of the EP Act.

The EPA is subject to the direction of the Minister for Climate, Environment and Water in exercising its powers, functions and duties. There are some processes in which it is independent, that is not required to accept guidance and direction from the Minister. These areas of independence are outlined in section 11 of the EP Act, and include:

- reports or recommendations that the EPA makes to the Minister
- the performance of the EPA's functions under Part 6 of the EP Act (including environmental authorisations such as licences and responses to planning authorities for development applications referred to it under the *Planning, Development and Infrastructure Act 2016*)
- enforcement of the EP Act.

The Minister may direct the EPA in all other matters under the EP Act. For example:

- the expenditure of the Environment Protection Fund and other monies paid to the EPA under the Act, provided it is for the purposes of the Act
- the making of an environment protection policy under Part 5
- the granting or renewal of an approval in relation to beverage containers (Part 8 Division 2); and
- emergency authorisations under Part 12.

The Board undertakes regular communication with the Minister via discussions with the Presiding Member. It also meets with the Minister from time to time as required.

The Board must deliver to the Minister, before 30 September each year, the EPA's annual report in accordance with the PS Act and section 111 of the EP Act. Currently, this is the primary means by which the Minister evaluates the Board's performance.

## 7 Relationship between the Board and the EPA Chief Executive

### Role of the Chief Executive

In addition to the EPA, there is also an administrative unit (the Agency), created under the *Public Sector Act 2009*, which is managed by the EPA Chief Executive. The EP Act allows the EPA to make use of the services of the Agency's employees and its facilities.

The Chief Executive of the Agency is appointed by the Premier under the PS Act for a period of up to five years. This person is also taken to be the Chief Executive of the EPA. The Chief Executive has responsibility for all staff and resource management matters related to the Agency. These functions, such as staff appointment, work health and safety, procurement and financial management, are specified through various legislative and administrative instruments, including:

- *Work Health and Safety Act 2012*
- *Public Sector Act 2009*
- *Public Sector (Honesty and Accountability) Act 1995*
- *Public Finance and Audit Act 1987*
- *State Procurement Act 2004*
- *State Records Act 1997*
- Treasurer's Instructions
- Commissioner for Public Sector Employment Guidelines
- Premier and cabinet circulars

### Relationship between the Board and the Chief Executive

Under the EP Act, the Chief Executive of the administrative unit is also the Chief Executive of the statutory authority and ex officio, a member of the EPA Board.

The Chief Executive is responsible to the Board for giving effect to its policies and decisions, and for the performance of the EPA's functions. In these circumstances, the Chief Executive is subject to the control and direction of the Board. The Board can expect the Chief Executive to make available the services of employees and facilities for the performance of those functions. The Chief Executive of the Agency is also subject to the direction of the Minister and the Premier.

The Board provides an annual report to the Minister regarding the Chief Executive's performance of their responsibilities and obligations as Chief Executive of the statutory authority.

Radiation protection and control activities are undertaken by the Agency in accordance with the *Radiation Protection and Control Act 2021* (RPC Act). Advisory and regulatory functions are the role of the Radiation Protection Committee, and the Minister for Climate, Environment and Water, who delegates administration of the RPC Act to the Chief Executive. The Board is not responsible for any aspect of the administration of the RPC Act.

## EPA staff

Agency staff are employed under the PS Act and section 14 of the EP Act empowers the EPA Board to make use of the services of staff and facilities to perform its functions. The relationship ensures that the Board is accountable for the EPA's functions.

## 8 Ethics, values and conflicts of interest

Board members acknowledge the need for the highest standard of corporate governance practices and ethical conduct by all members, employees and contractors.

The Board has endorsed a code of conduct (Appendix 1). This code is informed by the EP Act, PS Act, *Public Sector (Honesty and Accountability) Act 1995* and the Code of Ethics for the South Australian Public Sector.

The following values are the foundations of ethical behaviour in the South Australian Public Sector<sup>4</sup>:

- Service – Proudly serve the community and Government of South Australia.
- Professionalism – Strive for excellence.
- Trust – Have confidence in the ability of others.
- Respect – Value every individual
- Collaboration and engagement – Create solutions together
- Honesty and integrity – Act truthfully, consistently and fair
- Courage and tenacity – Never give up.
- Sustainability – Work to get the best results for current and future generations of South Australians.

These form the basis for the subset of values adopted by the Board as outlined below.

### Board values

The EPA Board adopts and practises a set of behaviours in carrying out its functions<sup>5</sup>:

- The Board strives to foster a climate of trust and candour in interactions between members.
- Open debate, dissent and discussion are encouraged as being constructive.
- Members are nominated for demonstrating attributes that are considered valuable for the Board's functions. These attributes represent a collective asset – to ensure the decision-making process is sound and consistent with the requirements of the EP Act.
- Individual members are responsible for their views and actions, but the Board is collectively responsible for its decisions.
- The Board is committed to regular review of its performance to ensure continuous governance improvement.

### Conflict of interest

Board members operate subject to conflict-of-interest provisions outlined in the *Public Sector (Honesty and Accountability) Act 1995*. The Crown Solicitor has noted that the duties and responsibilities of Board members of statutory authorities are derived from public and constitutional law, not company law. Private

<sup>4</sup> As outlined in the *Code of Ethics for the South Australian Public Sector*. This is the code of conduct for the purposes of the *Public Sector Act 2009*.

<sup>5</sup> Adapted from Sonnenfeld J 2002, 'What makes great boards?', *Harvard Business Review*.

company practices on conflict of interest are generally less onerous than the common law principles which apply to Board members of statutory authorities.

The *Public Sector (Honesty and Accountability Act) 1995* imposes certain duties on Board members who have a direct or indirect personal or pecuniary interest in a matter decided or under the consideration of the EPA.

Board members who have such an interest must disclose full and accurate details of the interest to the Board. Disclosures are recorded in the minutes of each meeting. Board members must not take part in any discussion relating to that matter, must not vote in relation to the matter, and must be absent from the meeting room when any discussion or voting occurs. The disclosure must be reported to the Minister as soon as is reasonably practicable.

‘Conflict of interest’ is not defined in the legislation, but a widely used definition is:

A conflict of interest is a set of circumstances that creates a risk that professional judgement or actions regarding a primary interest will be unduly influenced by a secondary interest.

*Primary interest* refers to the principal goals of the profession or activity, such as the protection of clients, the health of patients, the integrity of research, and the duties of public office.

*Secondary interest* includes personal benefit and is not limited to only financial gain but also such motives as the desire for professional advancement, or the wish to do favours for family and friends. These secondary interests are not treated as wrong in and of themselves but become objectionable when they are believed to have greater weight than the primary interests...

... A conflict of interest exists if the circumstances are reasonably believed (on the basis of past experience and objective evidence) to create a risk that a decision *may* be unduly influenced by other, secondary interests, and not on whether a particular individual *is actually* influenced by a secondary interest.<sup>6</sup>

As such it can apply not only to an actual conflict but, in some instances, also to a perceived conflict of interest.

---

<sup>6</sup> From Wikipedia at: [http://en.wikipedia.org/wiki/Conflict\\_of\\_interest](http://en.wikipedia.org/wiki/Conflict_of_interest), accessed on 3 May 2024

## 9 Public and stakeholder consultation

### Engagement

The Board takes an active interest in the implementation of the [EPA Engagement Charter](#). Effective engagement is important for building relationships, trust and rapport with stakeholders and community members. The Board's engagement activities present valuable opportunities for testing perceptions of the EPA generally, identifying specific issues of concern to stakeholders and highlighting possible areas of improvement for the EPA. Such engagement also provides a valuable platform for executive staff, with the support of board members, to promote and raise awareness about the EPA's work as well as a chance for stakeholders to ask questions.

All engagement undertaken by the Board is supported by sound administrative processes to ensure that feedback obtained is duly considered or acted upon and enquiries responded to in a timely manner.

### Roundtable conference

Section 19 of the EP Act requires the EPA hold a roundtable conference at such interval as the Authority determines for the purposes of assisting the Authority and the Minister to assess the views of interested bodies and persons on matters related to the operation of the EP Act or the protection, restoration or enhancement of the environment within the scope of the EP Act as the Authority may determine.

A round-table conference provides the Authority with the opportunity to gain input directly from stakeholders on emerging or strategic issues facing South Australia's environment and its management. It is also an opportunity for Board members to meet with people representing a wide range of interests and expertise in relation to matters to be considered, including representatives of the community, industry, and relevant environmental and professional organisations.

The proceedings from the most recent roundtable summit are available on the EPA website.

## Appendix 1 – Member’s code of conduct



### ENVIRONMENT PROTECTION AUTHORITY BOARD

### Members’ code of conduct

(Endorsed by the EPA Board at its 3 February 2010 Board meeting)

The objective of the code of conduct is to assist Board members fulfil their role, while respecting the principles of independence, competence, ethics and integrity that are expected of them.

This code applies to an individual’s conduct in their capacity as a member of the EPA Board.

- 1 A member has an obligation to comply with the duties of corporate agency members<sup>7</sup> under the *Public Sector (Honesty and Accountability) Act 1995* including:
  - the duty to exercise a reasonable degree of care and diligence in the performance of his or her functions (section 4)
  - the duty to act honestly at all times in the performance of the functions of his or her office (section 5)
  - the duty to not be involved in unauthorised transactions with the Agency or a subsidiary of the Agency (section 6)
  - the duty not to have an unauthorised interest in the Agency or a subsidiary of the Agency (section 7)
  - the duty with respect to conflict of interest (section 8) – A member who has a direct or indirect personal or pecuniary interest in a matter decided or under consideration by the Board must disclose to the Board full details of that interest, must not take part in any discussion or vote by the Board relating to the matter and must be absent from the meeting room when any such discussion or voting is taking place.
- 2 A member must ensure they are aware of and properly administer and comply with all legislation and regulations relevant to the performance of their duties.
- 3 A member must not make improper use of information acquired as a Board member.
- 4 A member must use his or her position for a proper purpose, in the best interests of the EPA as a whole.
- 5 A member has an obligation to be independent in judgment and actions and to take reasonable steps to be satisfied as to the soundness of all decisions taken by the Board.
- 6 A member approached by a lobbyist on a matter before the Authority should ensure that the lobbyist complies with the provisions of the [SA Government Lobbyist Code of Conduct](#). Under this code, with limited exceptions (primarily for non-profit organisations or persons/organisations lobbying on their own behalf), any lobbyists conducting lobbying activities with the SA Government must be registered on the [Lobbyists Register](#) and comply with the requirements of the Lobbyists Code of Conduct, which imposes certain requirements, including that they disclose who they are lobbying on behalf of and that they do not engage in any corrupt or dishonest conduct. Should any such approach occur the Board member concerned must notify the Presiding Member and the Chief Executive.

---

<sup>7</sup> ‘Corporate agency member’ means a member of the governing body of a public sector agency that is a body corporate.

- 7 In the event of a Board member becoming engaged in a discussion or communication (including on social media) outside of the Board or Agency (including with a representative of any person, or a lobbyist for an industry or other sector), about any matter under the control of or before the Board or Agency, including any matter in which the member is aware that the person may have a direct or indirect personal or pecuniary interest, a member is not to:
- purport to represent, or make any commitment on behalf of, the Board, the EPA or the Agency; or
  - disclose the views of other members of the Board expressed during discussion on a particular matter by the Board.

In addition to the above, in relation to a matter that is presently the subject of enforcement or compliance action by the EPA, a member:

- may hear complaints or queries from any person (including a person with an interest in the outcome of the matter), but
  - should not engage in a discussion about the merits of the matter or make a comment or express a view in relation to the merits of the matter.
- 8 A member may not publicly denigrate the management or administration of the Board or the Agency, or any committee of the EPA established by the Board or Agency.
- 9 A member will stay informed about the business of the EPA, by an appropriate level of contact with the organisation's Chief Executive and Agency executives, and periodic visits to the Agency's operations.
- 10 A member should strive to attend most meetings of the Board and spend a reasonable amount of time on preparation to ensure they meet their obligations as a Board member.
- 11 A member will not, for themselves or others, seek or accept gifts or benefits that could be reasonably perceived as influencing them in their role as an EPA Board member.



## Appendix 2 – Schedule of matters reserved for the Board



### ENVIRONMENT PROTECTION AUTHORITY BOARD

### Schedule of matters reserved for the Board

This Schedule sets out those matters the Environment Protection Authority Board (the Board) has reserved to itself for decision. Beyond this the Board also reserves for itself decision on matters of a sensitive, substantial<sup>8</sup>, extraordinary or strategic nature, in terms of the implications for the EPA.

This Schedule is reviewed annually by the Board and can only be amended with the approval of the Board.

This Schedule must be read in conjunction with the current version of the Board's Delegations Instrument.

#### 1 Board responsibility

##### 1.1 Management

The Board is the governing body of the Environment Protection Authority (EPA) in accordance with the *Environment Protection Act 1993* (EP Act) and other applicable legislation.

##### 1.2 Board operations

The Board is responsible for ensuring that it has appropriate governance arrangements in place, including a code of conduct and processes for reviewing the performance of the Board, Directors and any Board Committees.

##### 1.3 Delegation

The Board has delegated certain of the EPA's powers and functions to the Chief Executive pursuant to section 115 of the *Environment Protection Act 1993*. However, certain matters are reserved for the collective decision of the Board. The principle underlying this approach is the need to ensure that appropriate matters can be dealt with effectively under delegated authority, while ensuring good corporate governance by retaining Board control over significant decisions.

#### 2 Matters requiring Board approval

The following matters (including changes to any such matters) require approval from the Board, except where they are expressly delegated to the Chief Executive.

##### 2.1 Strategy formulation

- (a) Approve and review the EPA's Strategic Directions.
- (b) Monitor and support the alignment of the EPA's annual operating and capital expenditure budgets with the Strategic Directions.
- (c) Endorse in principle the annual Environment Protection Fund budget for forwarding to the Minister for approval.

<sup>8</sup> Substantial in terms of the economic, environmental or reputational ramifications for the EPA.

- (d) Provide advice to the Minister on the funding needs of the EPA and any service level implications of alternative funding models.

## **2.2. Policy making**

- (a) Determine the form of the Public Register.
- (b) Prepare draft environmental protection policies for forwarding to the Minister.

## **2.3 Monitoring and supervision**

- (a) Monitoring of, and changes to, the powers and functions delegated to the Chief Executive in the EPA Board Delegations Instrument.
- (b) Delegation, or changes to delegation, of powers and functions to local government or any other person or body.
- (c) Establish, and annually review the effectiveness of, the EPA's internal control and risk management processes.
- (d) Establish Board committees and determine the membership, responsibilities and terms of reference for each committee.
- (e) Matters impacting on compliance with statutory and regulatory obligations.

## **2.4 Provide accountability**

- (a) Approve the EPA's financial statements.
- (b) Approve the EPA's State of the Environment Report, its Corporate Governance Statement, Annual Report and other significant published reports and statements to stakeholders.
- (c) Determine the timing, format and focus of the roundtable conference (under section 19 of the EP Act).
- (d) Approve announcements and press releases concerning matters decided by the Board.