

OPERATIONAL RELATIONSHIP:  
ENVIRONMENTAL PROTECTION AUTHORITY  
DEPARTMENT OF ENVIRONMENT

Agreed:

Agreed:

Chairman, EPA

Director General, Department of  
Environment

18 March 2002

18 March 2002

Endorsed:

Minister for the Environment  
(pursuant to s.17A of the  
*Environmental Protection Act 1986*)

*\*Currently Mr R Payne is A/Chief Executive Officer of the Department of Environmental Protection and the Chief Executive, Water & Rivers Commission. This document uses the term Director General of the Department of Environment as this will eventually be the title in accord with Government decisions following the Machinery of Government Report.*

**OPERATIONAL RELATIONSHIP:  
ENVIRONMENTAL PROTECTION AUTHORITY AND DEPARTMENT OF  
ENVIRONMENT**

---

**1. INTRODUCTION**

Section 17A of the *Environmental Protection Act 1986* (the Act) sets out that the Minister will ensure that the Environmental Protection Authority (EPA) is provided with such services and facilities that are reasonably necessary for the Authority to perform its functions.

Section 17A also sets out that the Minister may allow the Authority to have, either full-time or part-time, the services of any officer in the Department (i.e. the Department through which the Act is administered) or any services or facilities of the Department.

The matter of services to the EPA was considered as part of the Machinery of Government review in 2001 which proposed that the EPA be supported by, and directly responsible for, a dedicated service housed within a new Department of Environment (DoE).

The Minister has stated that the EPA would have a dedicated staffing unit for environmental impact assessment and policy development, and that the EPA would be directly responsible for this unit.

The unit, to be known as the EPA Service Unit, is housed within DoE as set out in the Machinery of Government report and comprises the Office of the Chairman, the Policy & Coordination Division and the Environmental Impact Assessment Division.

It is noted that the Service Unit personnel have obligations to the Director General of DoE and are employees of DoE under the Public Service Act

The purpose of this paper is to provide additional information about the service arrangements as well as information about the relationship between the EPA and DoE as a whole.

**2. GENERAL**

The basis of the relationship between the EPA and DoE is that each agency will at all times recognise the other party's role and responsibilities in the spirit of partnership to optimise the environment outcomes.

Examples of the partnership arrangements are:

- (a) Staff of the Environmental Impact Assessment and the Policy and Co-ordination Divisions of DoE, which form the EPA Service Unit, have specialised knowledge in relation to requests by the Minister and Director General of DoE, and those staff need to be in a position to provide advice

to the Minister (through the Director General of the Department) as well as to the Director General.

- (b) Staff of the other Divisions of DoE also have specialised knowledge, such as about air quality and noise, which needs to be directly available to the EPA from time to time, for the conduct of the Authority's functions (eg Noise Regulation 17 applications), and on such occasions those staff will be empowered to act on behalf of the EPA in the same manner as the staff of the EPA Service Unit and the EPA will be responsible for the outcome. The arrangements for staff in such circumstances will be agreed between the relevant Directors such that the lines of responsibility are clear.
- (c) The EPA is dependent on sound advice from staff of all of the Divisions of DoE, and the EPA is available to provide advice and services to the Director General of DoE on matters relating to relevant acts administered by DEWCP if requested to do so.
- (d) There is a strong linkage between the advice given by the EPA under Part IV of the Act and the Licence Conditions set under Part V of the Act by DoE.
- (e) The Audit Branch of DoE provides advice to the EPA in relation to Environmental Conditions set by the Minister as a result of Part IV advice.

Attachment 1 sets out the accountability structure which shows the two Divisions of DoE which form the EPA Service Unit and the other five Divisions of DoE. Attachment 2 shows the staff of the EPA Service Unit operating on Department functions for a portion of the time and staff of the other five Divisions of DoE providing advice and support to the EPA in a comparable way. The Department's Business Planning process will provide the mechanism for determining appropriate portions.

### **3. ROLE AND RESPONSIBILITIES**

While the statutory framework for the role and responsibilities of the EPA and for the environmental regulation role of DoE are enshrined in the Act, operationally:

- The EPA:
  - provides policy and other environmental advice and makes recommendations to the Minister
  - initiates Environmental Protection Policies
  - undertakes environmental impact assessments
  - carries out environmental performance audits, including coverage of water resource management by DoE
  - monitors Waste Management WA under s.110O of the Act

- undertakes audits of compliance with Environmental Conditions where DoE is the proponent, and advises the Minister
  
- The Department through the Director General:
  - regulates premises through works approvals and licences consistent with approved Environmental Protection Policies (s60) and Environmental Conditions set under Part IV (s74)
  - audits compliance with Environmental and Licence Conditions
  - carries out enforcement actions
  - advises on appeals
  - under some 13 Acts, carries out natural resource management, catchment management, drainage management, water resource management which influences State development and related land use planning.

#### **4. ACCOUNTABILITIES**

- The EPA is accountable to the Minister for the discharge of its duties, functions and responsibilities, and for the quality of advice it provides.
- The Department through the Director General is accountable to the Minister, and Parliament through the Auditor General for performance of its functions, the efficient and effective use of public money and therefore all other resources. This includes the resources of the EPA Service Unit while the day to day operation is delegated from the Director General to the relevant Directors.
- The accountability structure is set out in Attachment 1.

#### **5. OPERATING PRINCIPLES**

- The EPA is independent in setting its work schedule and creating its advice.
- The EPA is supported by the Department, primarily through a dedicated Service Unit but also generally by all Divisions of the Department.
- The EPA Service Unit also supports the Minister and the Department through the Director General.
- The Department has major implementation responsibilities under the same Act as the EPA.
- Support to the EPA must be professionally provided to meet the EPA's requirements as they pertain to how the EPA wishes to operate.

- There is a need to strive for cooperation and consistency of behaviours, strategies and particularly stakeholder liaison management for coherence and effectiveness of the environmental portfolio.
- A good working partnership respecting each party's roles, must exist between the EPA and the Department. This must be reflected in the day to day relationship between the Chairman and the Director General of the Department.
- While the advice of the EPA is independent, the resources used in support of the EPA are part of a government department. EPA Service Unit staff and others when acting on behalf of the EPA must behave consistent with the requirements of the Public Sector Management Act and government policies and practice.
- Budgetary allocations will be done on a fair and reasonable basis. vis-a-vis the Department and the EPA.

## **6. OPERATING PROCEDURES**

- To achieve the synergies at government and agency level the EPA Service Unit directors are part of the Corporate Executive team of the Department.
- The "Contribution Management" philosophy and processes will be used to provide allocations of corporate resources.
- The structure of "Contribution Management" is set out in Attachment 3.
- The role of business custodians and their relationship with Divisional Managers is set out in Attachment 4.
- One of the EPA Service Unit Directors is to be the Business Custodian for the EPA support business and be responsible for the total budget in relation to the EPA support function across the whole Department, i.e. support Divisions and non-support Divisions.
- The Coordinator of EPA Services/Director of Policy and Coordination Division is nominated as the Business Custodian.

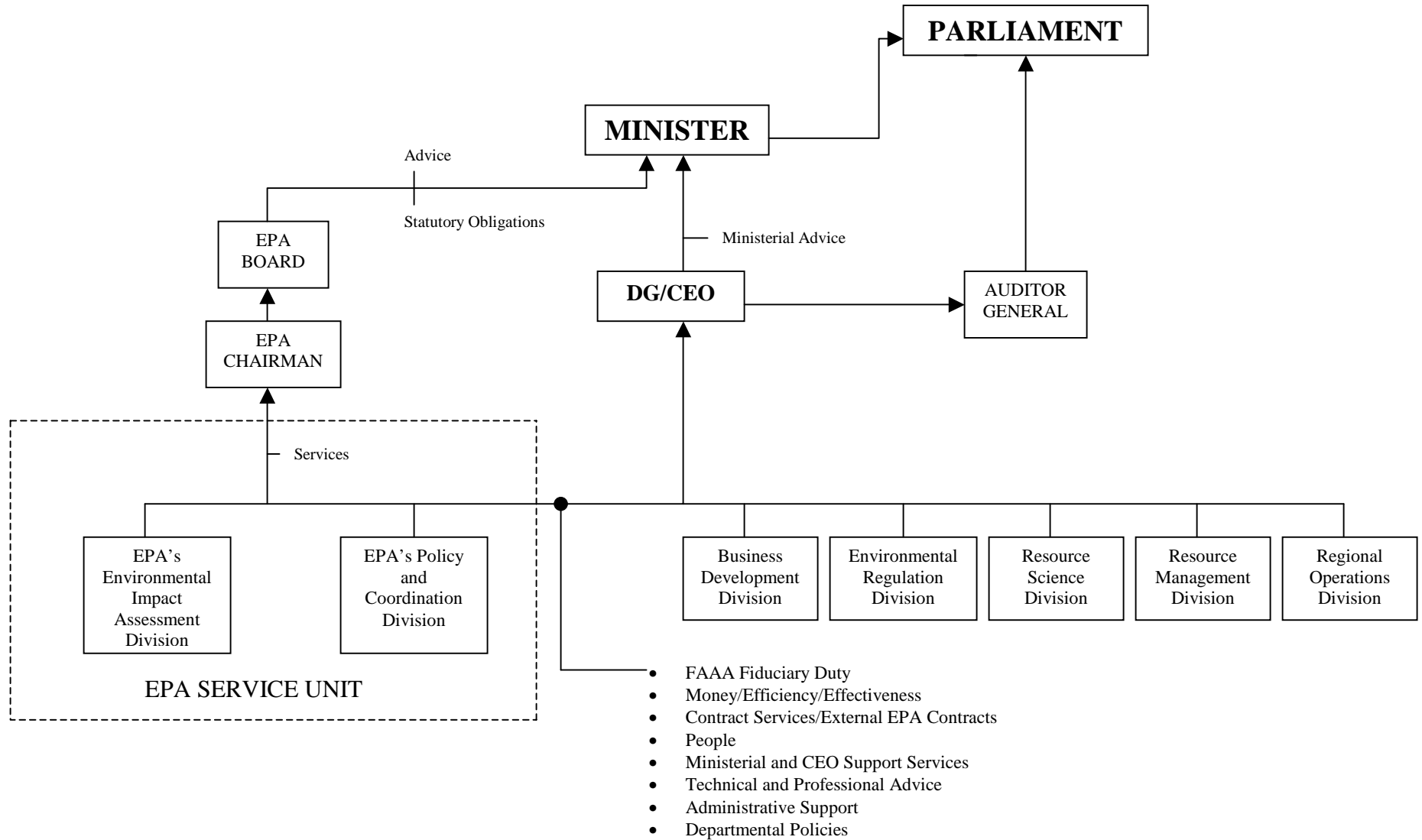
## **7. THE PROVISION OF SERVICES**

Attachment 5 provides further information about the provision of services to the EPA by DoE.

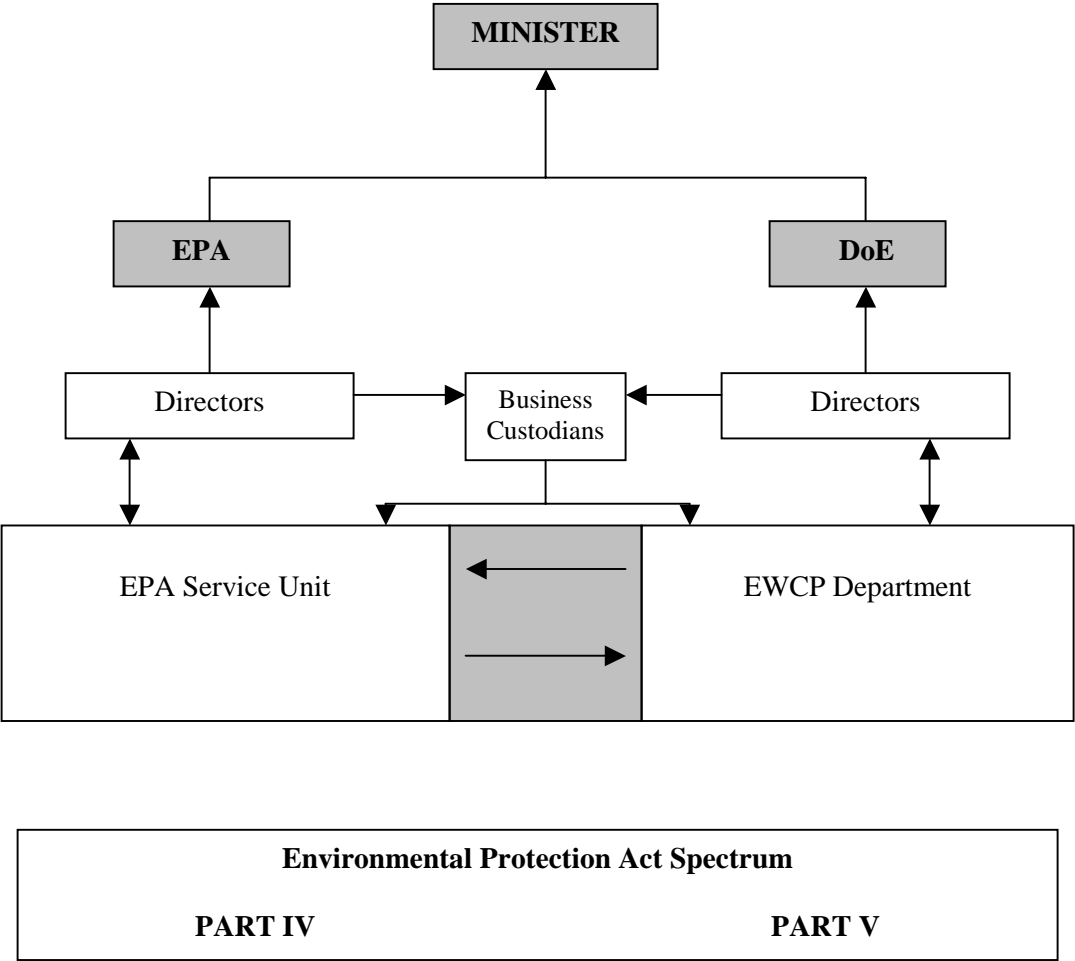
## **8. DURATION AND REVIEW OF THIS PROTOCOL**

- This protocol shall operate for three years from the time of signing by the parties unless reviewed and amended in writing through the mutual agreement of the parties.

# ACCOUNTABILITY STRUCTURE

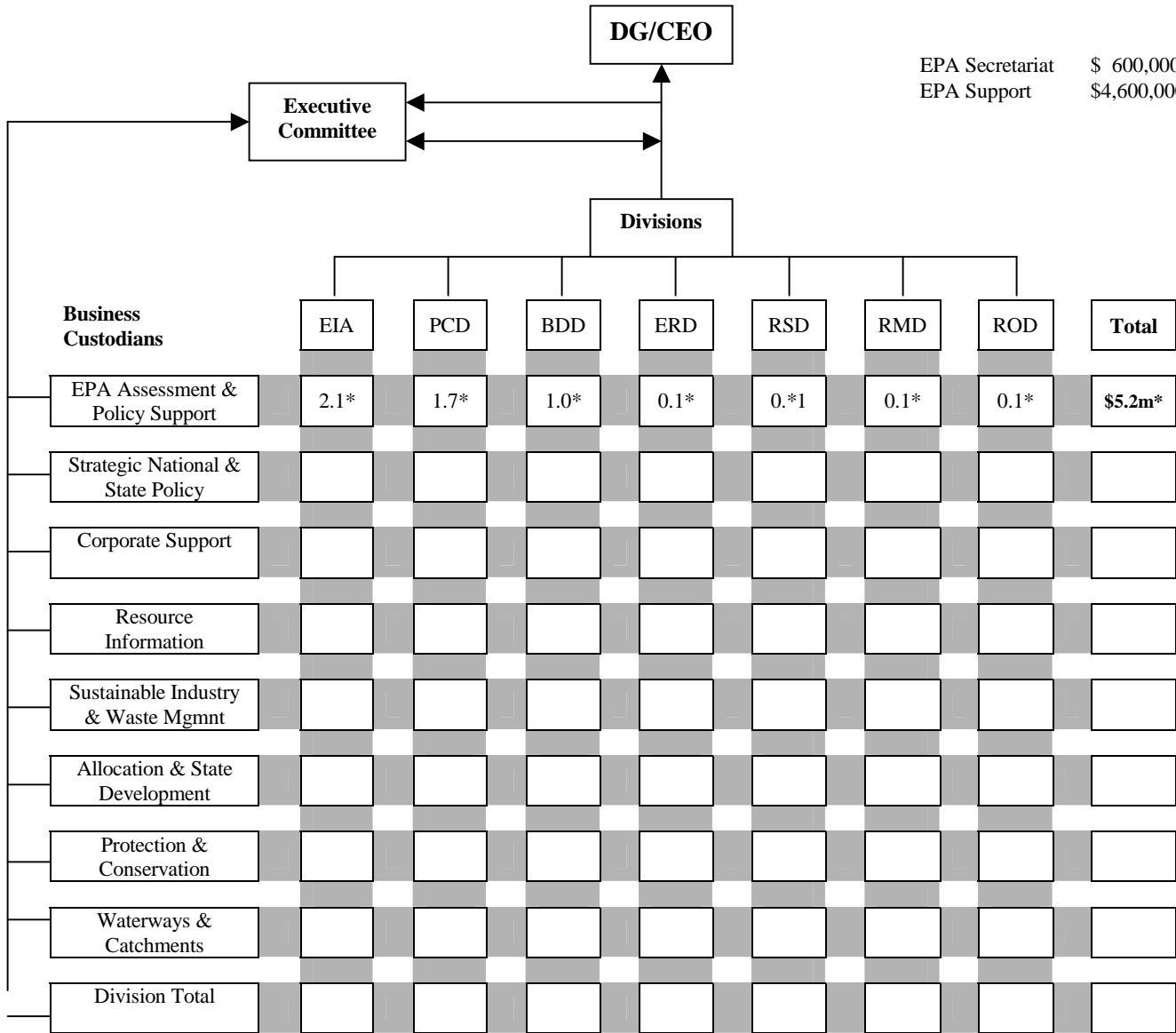


**TEAM WORK RELATIONSHIPS**



# CONTRIBUTION MANAGEMENT SYSTEM

EPA Secretariat    \$ 600,000  
EPA Support        \$4,600,000

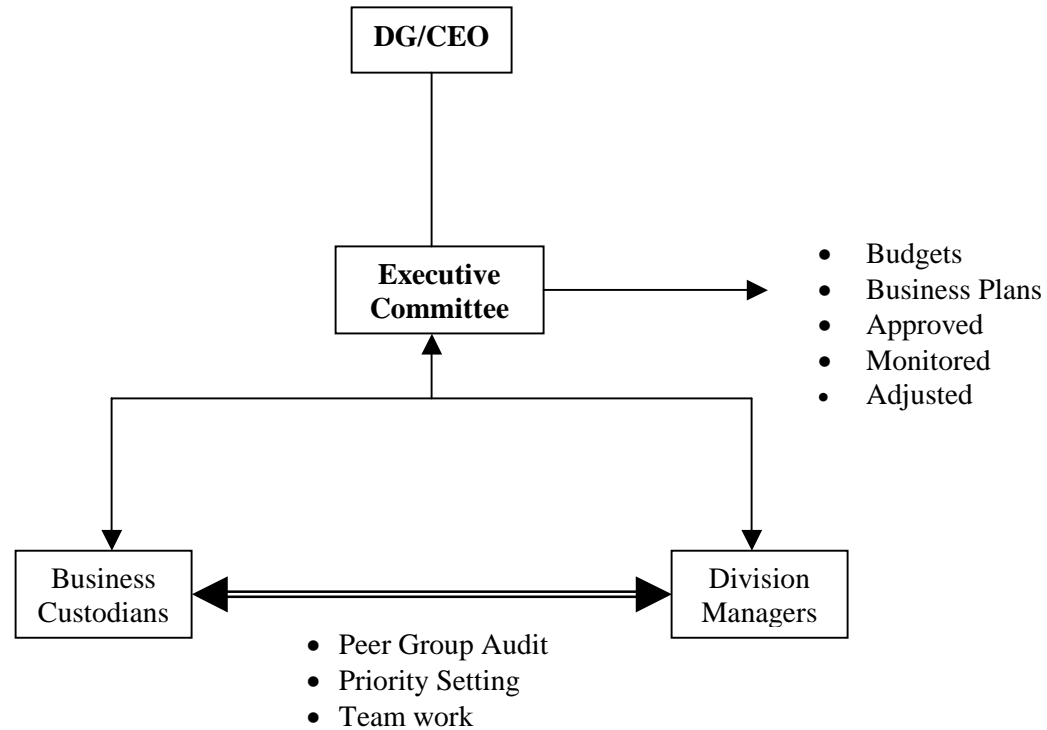


\*NB: Notional Numbers as Guide

- EIA      Environmental Impact Assessment Division
- PCD      Policy and Coordination Division
- BDD      Business Development Division
- ERD      Environmental Regulation Division
- RSD      Resource Science Division
- RMD      Resource Management Division
- ROD      Regional Operations Division

## CONTRIBUTION RESPONSIBILITY RELATIONSHIPS

Attachment 4



- NB
1. Fundamentally, controlled intermittent matrix management that is turned off and on.
  2. Complexity is retained at the Director level as the same people are both Business Custodians and Directors. (ie they wear two hats).
  3. Builds internal teamwork.
  4. Provides the ability to complete on time and change outputs quickly.

## SPECIFICATION OF SERVICES TO THE ENVIRONMENTAL PROTECTION AUTHORITY BY THE DEPARTMENT OF ENVIRONMENT, WATER AND CATCHMENT PROTECTION

---

### Basis

1. The statutory basis of the provision of services is contained in s17A of the *Environmental Protection Act 1986* which says in summary:
  - the Minister shall ensure that the EPA is provided with such services and facilities as are reasonably necessary to enable it to perform its functions; and
  - the Minister may arrange for the EPA to make use of the services of any officer or employee of the Department or any services or facilities of the Department.
2. The Director General, Department of Environment, Water and Catchment Protection is the employer of Departmental staff under the Public Sector Management Act and is the accountable officer for the use of public monies under the *Financial Administration and Audit Act*.
3. The Government's decision following its Machinery of Government review (2001) regarding the servicing arrangements for the EPA was in summary:
  - greater independence for the EPA;
  - the EPA will be directly responsible for a dedicated service unit housed within DoE (comprising the Environmental Impact Assessment Division and the Policy and Coordination Division with a Coordinator of EPA services); and
  - flexibility for the EPA in deploying its own resources.
4. The objectives of these arrangements are to:
  - provide for an open, cooperative and effective partnership for the advancement of better environmental protection in the State;
  - ensure that protocols for service arrangements are articulated and roles and responsibilities are clear;
  - agree that the EPA and DoE will at all times operate in a manner which is supportive, open and constructive with each other; and
  - recognise that service and advice obligations between the Department and the EPA Service Unit flow both ways.

### Services

5. There is a number of arrangements associated with the provision of services to the EPA by DoE which need business protocols for efficient outcomes:
  - 5.1 EPA Service Unit (comprising the Policy and Coordination Division, including the Office of the Chairman, and Environmental Impact Assessment Division) to the EPA.
  - 5.2 Professional and technical advice, and administrative support from the balance of DoE to the EPA coordinated through Contribution Management (see Attachments 3 & 4).
  - 5.3 EPA Service Unit to the Minister via the Director General.
  - 5.4 EPA Service Unit to the Director General and balance of DoE.
  
6. The business protocols which apply to each of these are:
  - 6.1 EPA Service Unit to EPA
    - (a) Chairman, EPA provides direction on a regular basis directly to the Coordinator of EPA Services/Director of Policy and Coordination, Director of Environmental Impact Assessment Division and all staff within the Office of the Chairman (this does not preclude direct access to the Chairman by any staff in the EPA Service Unit).
    - (b) The Chairman and the Director General shall agree on the broad scope of budgets and equity between the EPA Service Unit and the Department before business planning is undertaken.
    - (c) The budget and business plan for the EPA Business will be endorsed by the EPA before endorsement as part of the combined budget by the Director General in Corporate Executive.
    - (d) The formulation of the business plan for the EPA including proposed budget and staff allocations, new initiatives, outputs and indicators will be discussed with the EPA Chairman, and the EPA as appropriate.
    - (e) Officers provide advice to the EPA 'without fear or favour' until the EPA resolves or establishes its position, and at that point officers perform a secretariat role to deliver a product for the EPA consistent with EPA resolutions and decisions.
    - (f) Officers will attend an array of external meetings on behalf of the EPA, as required, and provide advice as members of the EPA Service Unit, and that advice will be consistent with EPA views and policies.

(g) Officers will use EPA letterhead when writing, under delegation, on behalf of the EPA.

6.2 Professional and technical advice and administrative support from the balance of DoE to the EPA

(a) DoE officers provide technical and professional advice to the EPA 'without fear or favour' to support and facilitate the EPA in carrying out its duties, functions and responsibilities.

Where relevant, or where specifically requested by the EPA, DoE will provide advice to the EPA with a whole-of-department position.

Business plans will reflect broadly the appropriate commitment of resources at the business level.

(b) Where a significant commitment of resources is required in providing specific advice, requests will generally be put in writing at Director – Director level. However, nothing in these arrangements prevents the free flow of information or exchange of views within the whole of the Department.

(c) Administrative support will be provided to the EPA primarily by the Business Development Division encompassing the following areas:

- financial
- human resource management
- information technology
- records
- legal
- public affairs
- front line telephone and reception
- vehicles and travel
- equipment purchase and maintenance
- freedom of information
- contract management
- library and public reading room
- publications

6.3 EPA Service Unit to the Minister via the Director General

(a) The EPA Service Unit provides the following services to the Minister -

- advice and draft responses to (inter alia) Parliamentary Questions, Ministerial letters, Cabinet submissions, reports for briefings, attendance at Ministerial meetings;
- advice on appeals lodged on EPA Reports and Recommendations under s44 of the Act in consultation with other Divisions of DoE;
- advice on the setting of Environmental Conditions under s45 of the Act; and
- process management and advice on Environmental Protection Policies under s30 of the Act, and in particular pursuant to the Minister's statutory functions

(b) The key test for providing such services is that the EPA Service Unit is the prime holder of the relevant expertise.

(c) The Coordinator of EPA Services has delegated authority to sign off advice to the Minister subject to the same conditions applied by the Director General to equivalent delegations elsewhere in DoE.

6.4 EPA Service Unit to the Director General

(a) The EPA Service Unit provides (inter alia) the following services to the Director General -

- financial accountability for expenditure incurred;
- performance reporting about the EPA Service Unit for meeting the requirements of central agencies, in particular the Annual Report to Parliament, Treasury, Auditor General and the Department of Consumer and Employment Protection; and
- professional and technical advice consistent with a public service agency under the *Public Sector Management Act*.

(b) The primary accountability for service delivery to the Director General is vested with the Divisional Directors in the EPA Service Unit. However, this does not obviate the responsibility of all staff to act within the Code of Conduct for the Department at all times within the accountabilities of the *FAA Act*, and with propriety.

## Special Protocols

### 7. Protocols for some specific circumstances

- 7.1 Formulation of Government Policy, the drafts of Legislation or Regulations, and the preparation of, and comments on Cabinet Minutes.

Where the Department becomes aware of the formulation of Government policy, the drafting of Legislation or Regulations or the preparation or commenting upon Cabinet Minutes which have the potential to significantly affect EPA responsibilities, the Department will recommend to the Minister that the EPA be consulted by the Minister.

- 7.2 Ministerial Councils' Business

In similar manner to 7.1, where the Department becomes aware that the business of Ministerial Councils has the potential to significantly affect EPA responsibilities, the Department will consult the EPA before decisions are taken. The process of initiating and developing National Environment Protection Measures under the *National Environment Protection Council (Western Australia) Act 1996*, is especially pertinent.

- 7.3 Where the EPA becomes aware of matters which have the potential to significantly affect the Department's responsibilities, the EPA will consult the Department before decisions are taken.

- 7.4 The Director General of the Department will be informed of EPA meetings and agendas (consistent with s11(3) of the Act).

- 7.5 Where the Director General in the capacity as Waste Management WA or as Chief Executive of the Water & Rivers Commission or Director General of the Department of Environment is proponent for a proposal assessed under Part IV of the *Environmental Protection Act 1986* and the EPA has the responsibility under s.110O or delegated authority to audit compliance with conditions set under that Part, the Director General will provide funding on a cost recovery basis for the EPA to employ external expertise to enable it to meet those obligations.

- 7.6 The Chairman of the EPA and the Director General shall ensure synchronisation of the EPA and Department stakeholder liaison strategies as necessary.