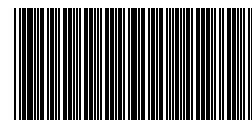




Filed: 8 May 2020 5:25 PM



D00019UNMZ

Amended Summons

COURT DETAILS

Court	Land and Environment Court of NSW
Division	Class 4
Registry	Land and Environment Court Sydney
Case number	2020/00106678

TITLE OF PROCEEDINGS

First Applicant	Bushfire Survivors for Climate Action Incorporated (INC1901160)
First Respondent	Environment Protection Authority

FILING DETAILS

Filed for	Bushfire Survivors for Climate Action Incorporated (INC1901160), Applicant 1
Legal representative	ELAINE ELIZABETH JOHNSON
Legal representative reference	
Telephone	02 9262 6989
Your reference	2027737

ATTACHMENT DETAILS

In accordance with Part 3 of the UCPR, this coversheet confirms that both the Lodge Document, along with any other documents listed below, were filed by the Court.

Amended Summons (200508 FINAL Amended Summons Bushfire Survivors v EPA (unsealed).pdf)

[attach.]

Form 4A (version 4)
UCPR 6.2

AMENDED SUMMONS

COURT DETAILS

Court	The Land and Environment Court of New South Wales
Division	Class 4
Registry	225 Macquarie Street, Sydney
Case number	<u>20/106678</u>

TITLE OF PROCEEDINGS

Applicant	Bushfire Survivors for Climate Action Incorporated (INC1901160)
Respondent	Environment Protection Authority (ABN 43 692 285 758)

FILING DETAILS

Filed for	Bushfire Survivors for Climate Action Incorporated, Applicant
Legal representative	Elaine Johnson, Environmental Defenders Office Ltd
Legal representative reference	1926923
Contact name and telephone	Elaine Johnson; Matt Floro; (02) 9262 6989
Contact email	elaine.johnson@edonsw.org.au; matthew.floro@edonsw.org.au

HEARING DETAILS

This summons is listed at

TYPE OF CLAIM

Environmental Law – other civil enforcement

RELIEF CLAIMED

1 Pursuant to ss 65(1) and 69(1) of the *Supreme Court Act 1970* and ss 20(2)(a) and 20(3)(a) of the *Land and Environment Court Act 1979*, orders in the nature of mandamus requiring the Respondent to:

(a) develop environmental quality objectives, guidelines and policies to ensure environment protection; and

(b) develop draft policies in accordance with Chapter 2 of the *Protection of the Environment Operations Act 1997* to ensure environment protection.

2 Costs.

GROUNDS

The grounds on which the Applicant seeks relief are set out in the Points of Claim annexed to this Amended Summons.

SIGNATURE OF LEGAL REPRESENTATIVE

This summons does not require a certificate under clause 4 of Schedule 2 to the *Legal Profession Uniform Law Application Act 2014*.

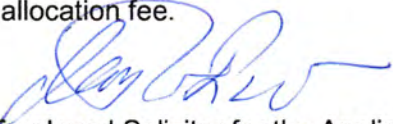
I have advised the Applicant that court fees may be payable during these proceedings.

These fees may include a hearing allocation fee.

Signature

Capacity

Date of signature


Employed Solicitor for the Applicant

8/15/2020

NOTICE TO RESPONDENT

If your solicitor, barrister or you do not attend the hearing, the court may give judgment or make orders against you in your absence. The judgment may be for the relief claimed in the summons and for the plaintiff's costs of bringing these proceedings.

Before you can appear before the court you must file at the court an appearance in the approved form.

HOW TO RESPOND

Please read this summons very carefully. If you have any trouble understanding it or require assistance on how to respond to the summons you should get legal advice as soon as possible.

You can get further information about what you need to do to respond to the summons from:

- A legal practitioner.
- LawAccess NSW on 1300 888 529 or at www.lawaccess.nsw.gov.au.
- The court registry for limited procedural information.

Court forms are available on the UCPR website at www.ucprforms.justice.nsw.gov.au or at any NSW court registry.

REGISTRY ADDRESS

Street address	Level 4, 225 Macquarie Street, Windeyer Chambers SYDNEY NSW 2000
Postal address	GPO Box 3565 SYDNEY NSW 2001
Telephone	+61 2 9113 8200

[on separate page]

FURTHER DETAILS ABOUT APPLICANT**Applicant**

Name	Bushfire Survivors for Climate Action Incorporated (INC1901160)		
Address	C/O Andrew Jeeves	Wallaby Lodge	
	54	Ivor Jones	Dv
	Wonboyn	NSW	2551

Legal representative for applicant

Name	Elaine Johnson		
Practising certificate number	49602		
Firm	Environmental Defenders Office Ltd		
Contact solicitor	Elaine Johnson / Matt Floro		
Address	Level 5		
	263	Clarence	Street
	Sydney	NSW	2000
Telephone	+61 2 9262 6989		
Fax	+61 2 9264 2414		
Email	elaine.johnson@edonsw.org.au; matthew.floro@edonsw.org.au		
Electronic service address	elaine.johnson@edonsw.org.au; matthew.floro@edonsw.org.au		

DETAILS ABOUT RESPONDENT**Respondent**

Name	Environment Protection Authority (ABN 43 692 285 758)		
Address	<u>Level 14 4 Parramatta Square</u>		
	<u>59-61 12</u>	<u>Goulburn Darcy</u>	Street
	<u>Sydney</u>	NSW	<u>2000 2150</u>
	<u>Parramatta</u>		

POINTS OF CLAIM**COURT DETAILS**

Court	The Land and Environment Court of New South Wales
Division	Class 4
Registry	225 Macquarie Street, Sydney
Case number	

TITLE OF PROCEEDINGS

Applicant	Bushfire Survivors for Climate Action Incorporated (INC1901160)
Respondent	Environment Protection Authority (ABN 43 692 285 758)

FILING DETAILS

Filed for	Bushfire Survivors for Climate Action Incorporated, Applicant
Legal representative	Elaine Johnson, Environmental Defenders Office Ltd
Legal representative reference	1926923
Contact name and telephone	Elaine Johnson; Matt Floro; (02) 9262 6989
Contact email	elaine.johnson@edonsw.org.au; matthew.floro@edonsw.org.au

POINTS OF CLAIM**Introduction**

- 1 The Respondent is a statutory body representing the Crown constituted under s 5 of the *Protection of the Environment Administration Act 1991* (**POEA Act**).

Statutory context

- 2 Section 4(c) of the POEA Act states that one of the objects of the Act is to “*require*” the Respondent “*to perform particular tasks in relation to the quality of the environment, environmental audit and reports on the state of the environment.*”
- 3 The general functions of the Respondent are set out in s 7 of the POEA Act. Section 7(2) provides that the Respondent has “*general responsibility*” for a number of functions including “*ensuring that the best practicable measures are taken for environment protection in accordance with the environment protection legislation and other legislation.*”
- 4 Section 8 of the POEA Act is titled “*General powers of Authority*” and relevantly states that the Respondent “*may*” carry out several functions, for example “*formulate and promote plans for environment protection*” and “*invite and consider*

public submissions...when it develops objectives, guidelines or policies under section 9..."

- 5 The Respondent was “*required*” by s 9(1) of the POEA Act to “*develop environmental quality objectives, guidelines and policies to ensure environment protection.*”
- 6 Pursuant to ss 6 and 55 of the *Protection of the Environment Operations Act 1997* (NSW) (**POEO Act**), the Respondent is the regulatory authority responsible for granting environment protection licences which authorise the carrying out of activities identified in Schedule 1 of the POEO Act.
- 7 Certain scheduled activities cause pollution and create waste, including as a result of the direct and indirect greenhouse gas emissions arising from the activity.

The risk of harm to environment arising from greenhouse gases

- 8 Emissions of carbon dioxide (CO₂) and other greenhouse gases from human activity (including power generation, industry, transport and agriculture) are leading to a build-up of these gases in the atmosphere, trapping heat and leading to global warming, also known as climate change.

Particulars

- i. State of NSW and the Environment Protection Authority: NSW State of the Environment 2018, December 2018, p.109.
<https://www.soe.epa.nsw.gov.au/sites/default/files/2019-05/18p1370-nsw-state-of-the-environment-2018-WEB_9-5-19.pdf> (accessed on 20 February 2020)
- 9 Anthropogenic greenhouse gas emissions contribute to anthropogenic climate change.
- 10 Once emitted, greenhouse gases disperse throughout the global atmosphere where they act cumulatively to contribute to anthropogenic climate change.
- 11 Greenhouse gases are a form of air pollution and waste.
- 12 Unregulated release of greenhouse gases is the greatest threat to the environment and people of NSW, as anthropogenic climate change has the potential to adversely and irreversibly alter all aspects of the natural environment.
- 13 Direct and indirect greenhouse gas emissions from activities in New South Wales impact on the environment.
- 14 In addition to domestic emissions, Australia exports two-thirds of its net energy production. This includes coal and natural gas, the combustion of which contributes

to greenhouse gas emissions. Australia is one of the world's largest producers and exporters of coal and produced around 510 million tonnes (Mt) of coal in 2017/18. NSW and Queensland are the two main producing states for black coal in Australia.

Particulars

- i. Reserve Bank of Australia: The Changing Global Market for Coal, 19 September 2019.
<<https://www.rba.gov.au/publications/bulletin/2019/sep/the-changing-global-market-for-australian-coal.html>> (accessed 20 February 2020)
- ii. Australian Government, Department of Environment and Energy: Australian Energy Update 2019, 1 September 2019.
<<https://www.energy.gov.au/publications/australian-energy-update-2019>> (accessed 20 February 2020)

15 The Intergovernmental Panel on Climate Change (IPCC) is a United Nations body that assesses recent scientific research on climate change and its effects from around the world. The IPCC has published five comprehensive assessment reports to date, the most current being the Fifth Assessment Report in 2014. Key findings include the following:

- a. warming of the climate is unequivocal, and since the 1950s, many of the observed changes are unprecedented over decades to millennia;
- b. human influence is clear and is the dominant cause of global warming since 1950.

Particulars

- i. State of NSW and the Environment Protection Authority: NSW State of the Environment 2018, December 2018, p111.
<https://www.soe.epa.nsw.gov.au/sites/default/files/2019-05/18p1370-nsw-state-of-the-environment-2018-WEB_9-5-19.pdf> (accessed on 20 February 2020)

16 The effects of anthropogenic climate change are already being seen:

- a. global average surface temperature is approximately 1 degree Celsius (°C) higher than pre-industrial levels. Australia's climate has warmed by just over 1°C since 1910.
- b. 2019 was Australia's warmest and driest year on record. Globally, 2019 is likely to be the second-warmest year. It was the warmest year without the influence of El Niño.

- c. as of 2018, eight of Australia's top ten warmest years on record had occurred since 2005.
- d. as of 2018, sea surface temperature in the Australian region has warmed by around 1°C since 1910, with eight of the ten warmest years on record occurring since 2010.

Particulars

- i. State of NSW and the Environment Protection Authority: NSW State of the Environment 2018, December 2018.
<https://www.soe.epa.nsw.gov.au/sites/default/files/2019-05/18p1370-nsw-state-of-the-environment-2018-WEB_9-5-19.pdf> (accessed on 20 February 2020)
- ii. CSIRO and Australian Government Bureau of Meteorology 2018: State of the Climate 2018.
<<https://www.csiro.au/en/Research/OandA/Areas/Assessing-our-climate/State-of-the-Climate-2018/Report-at-a-glance>> (accessed on 20 February 2020)
- iii. Australian Government Bureau of Meteorology: Hottest, driest year on record led to extreme bushfire season, 9 January 2020.
<<http://media.bom.gov.au/social/blog/2304/hottest-driest-year-on-record-led-to-extreme-bushfire-season/>> (accessed on 20 February 2020)

- 17 Greenhouse gas emissions have already had the following additional impacts:
- a. changes in the basic circulation patterns of the atmosphere and the ocean;
 - b. increases in intensity and frequency of many extreme weather events;
 - c. increases in acidity of the oceans;
 - d. rise in sea levels and consequent increases in coastal flooding;
 - e. intensification of the hydrological cycle;
 - f. increases in the frequency and/or duration of heat waves;
 - g. increases in the intensity and/or duration of drought.
- 18 In Australia, the existing impacts of anthropogenic climate change include:
- a. an increase in the frequency of extreme heat events;

- b. a long-term increase in extreme fire weather and in the length of the fire season, across large parts of Australia, especially in southern and eastern Australia;
- c. April to October rainfall in the southeast of Australia has decreased by approximately 11 percent since the late 1990s;
- d. sea levels are rising around Australia increasing the risk of inundation and damage to infrastructure;
- e. ocean warming has contributed to longer and more frequent marine heatwaves. Marine heatwaves and mass bleaching events on the Great Barrier Reef in 2016 and 2017 were likely due to warming oceans as a result of anthropogenic climate change;
- f. oceans around Australia are acidifying. Those changes have led to a reduction in coral calcification and growth rates on the Great Barrier Reef, which impacts recovery from coral bleaching.

Particulars

- i. CSIRO and Australian Government Bureau of Meteorology 2018: State of the Climate 2018.
<<https://www.csiro.au/en/Research/OandA/Areas/Assessing-our-climate/State-of-the-Climate-2018/Report-at-a-glance>> (accessed on 12 November 2019)

19 The climate of New South Wales is also changing due to global warming. Impacts that have already been seen include:

- a. 1°C increase in average temperature from the period 1960–90 to 2018;
- b. the number of hot days across NSW has been increasing since the mid-20th century, with a decrease in the number of cold nights (temperatures dropping to less than 2°C overnight);
- c. over the period 1911–2013, heatwaves in parts of NSW have become longer, hotter and more frequent. Since the late 1950s, these changes have accelerated in most regions;
- d. 3.2mm rise in sea level per year for the NSW coast since 1993.

Particulars

- i. State of NSW and the Environment Protection Authority: NSW State of the Environment 2018, December 2018.
<<https://www.soe.epa.nsw.gov.au/sites/default/files/2019-05/18p1370->

nsw-state-of-the-environment-2018-WEB_9-5-19.pdf> (accessed on 20 February 2020)

- 20 Australia is a signatory to the Paris Agreement, which aims to strengthen the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty, including by, *inter alia*:

Holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change.

Particulars

- i. Paris Agreement, Art. 2(1)(a)

- 21 The global problem of climate change cannot meaningfully be addressed without multiple local actions to mitigate emissions by sources and remove greenhouse gas emissions by sinks.

- 22 The document titled “NSW Climate Change Policy Framework” published by the State of NSW and the Office of Environment and Heritage in 2016 states that the NSW Government endorses the Paris Agreement, and contains an aspirational long-term objective to “achieve net zero emissions by 2050”.

- 23 Global emissions are currently rising, and the world is not on target to reduce emissions in line with the international goal of limiting global temperature rise to 1.5°C above pre-industrial levels.

Particulars

- i. IPCC: Global warming of 1.5°C degrees – Summary for Policy Makers, October 2018. Figure SPM.1
<https://report.ipcc.ch/sr15/pdf/sr15_spm_final.pdf> (accessed 20 February 2020)

- 24 The current emissions reduction trajectory for Australia is not in line with the international goal of limiting global temperature rise to 1.5°C above pre-industrial levels.

Particulars

- i. Australian Government, Department of the Environment and Energy: Quarterly Update of Australia’s National Greenhouse Gas Inventory: June 2019, June 2019. <<https://www.environment.gov.au/climate-change/climate-science-data/greenhouse-gas-measurement/publications/quarterly-update-australias-nggi-jun-2019>> (accessed 20 February 2020)

- ii. Australian Government, Department of the Environment and Energy: Australia's Emissions Projections, December 2019. <<https://www.environment.gov.au/climate-change/publications/emissions-projections-2019>> (accessed 20 February 2020)
- iii. IPCC: Global warming of 1.5°C degrees – Summary for Policy Makers, October 2018. <https://report.ipcc.ch/sr15/pdf/sr15_spm_final.pdf> (accessed 20 February 2020)

25 The current emissions reduction trajectory for New South Wales is not in line with the international goal of limiting global temperature rise to 1.5°C above pre-industrial levels.

Particulars

- i. Australian Government, Department of the Environment and Energy: State and Territory Greenhouse Gas Inventories 2017, June 2019. <<https://www.environment.gov.au/climate-change/climate-science-data/greenhouse-gas-measurement/publications/state-and-territory-greenhouse-gas-inventories-2017>> (accessed 20 February 2020)

26 The effects of climate change on the people and the environment of NSW are expected to become more pronounced and increase in severity as warming continues over the next century.

Particulars

- i. State of NSW and the Environment Protection Authority: NSW State of the Environment 2018, December 2018, p109. <https://www.soe.epa.nsw.gov.au/sites/default/files/2019-05/18p1370-nsw-state-of-the-environment-2018-WEB_9-5-19.pdf> (accessed on 20 February 2020)

27 Anthropogenic climate change will continue to have adverse environmental, economic and social impacts of a serious and irreversible kind to the environment in New South Wales, Australia, and globally.

28 On current projections, the likely and/or potential consequences of climate change for New South Wales include the following:

- a. maximum temperatures increasing in the near future by 0.4 to 1.0°C;
- b. minimum temperatures increasing in the near future by 0.0 to 0.5°C;
- c. the number of hot days will increase in the near and far future;

- d. rainfall to decrease in spring and winter in the near and far future;
- e. average fire weather to increase in summer and spring in the near and far future;
- f. number of days with severe fire danger to increase in summer and spring in the near and far future;
- g. increase in the intensity of extreme rainfall events and associated flooding, although the magnitude of the increases cannot be confidently projected;
- h. soil organic carbon (a widely used indicator of soil health) is expected to decline throughout the state, resulting in losses up to 10t/ha. In the southern alpine region, losses greater than 20t/ha are likely;
- i. the effects of existing threats on biodiversity are expected to be exacerbated and additional pressures will be introduced;
- j. sea level rise is expected to increase resulting in greater exposure of coastal lakes and estuaries to inundation and erosion.

Particulars

- i. NSW Government, Office of Environment & Heritage: New South Wales Climate Change snapshot, November 2014.
<<https://climatechange.environment.nsw.gov.au/Climate-projections-for-NSW/Climate-projections-for-your-region/NSW-Climate-Change-Downloads>> (accessed on 25 November 2019)
- ii. State of NSW and the Environment Protection Authority: NSW State of the Environment 2018, December 2018.
<https://www.soe.epa.nsw.gov.au/sites/default/files/2019-05/18p1370-nsw-state-of-the-environment-2018-WEB_9-5-19.pdf> (accessed on 20 February 2020)

29 If there is a 1.5-2.0°C temperature rise (relative to the period 1850-1900, as an approximation of preindustrial levels), the following further risks will arise:

- a. the risk of widespread impacts on the most vulnerable would rise from moderate towards high;
- b. the aggregated impacts of climate change around the world would increase political tensions and instabilities and take its toll on the global economy.

Particulars

- i. IPCC (2014) Assessment Box SPM.1, Figure 1 from IPCC (2014): Climate Change 2014: Impacts, Adaptation, and Vulnerability –

Summary for Policymakers. Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Field CB, Barros VR, Dokken DJ, Mach KJ, Mastrandrea MD, Bilir TE, Chatterjee M, Ebi KL, Estrada YO, Genova RC, Girma B, Kissel ES, Levy AN, MacCracken S, Mastrandrea PR, and White LL (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

<https://www.ipcc.ch/site/assets/uploads/2018/02/ar5_wgII_spm_en.pdf> (accessed on 21 February 2020)

- 30 If there were a 4°C temperature rise (relative to the period 1850-1900, as an approximation of preindustrial levels) above preindustrial levels, there is a high to very high risk that:
- a. most of the world's ecosystems would be heavily damaged or destroyed;
 - b. extreme weather events would be far more severe and frequent than today;
 - c. the most vulnerable people would increase greatly in number and, as large areas of the world become uninhabitable, migration and conflict would escalate;
 - d. the aggregated impacts around the world would significantly damage the entire global economy;
 - e. a cascade of intrinsic tipping points in the climate system could drive ongoing strong warming even if action was taken to reduce emissions.

Particulars

- i. IPCC (2014) Assessment Box SPM.1, Figure 1 from IPCC (2014): Climate Change 2014: Impacts, Adaptation, and Vulnerability – Summary for Policymakers. Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Field CB, Barros VR, Dokken DJ, Mach KJ, Mastrandrea MD, Bilir TE, Chatterjee M, Ebi KL, Estrada YO, Genova RC, Girma B, Kissel ES, Levy AN, MacCracken S, Mastrandrea PR, and White LL (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.
<https://www.ipcc.ch/site/assets/uploads/2018/02/ar5_wgII_spm_en.pdf> (accessed on 21 February 2020)

- 31 At all material times, the Respondent:

(a) has been aware of each of the matters alleged in paragraphs 8 to 30 above;
and

(b) has believed each of those matters to be true.

Respondent's duties

32 At all material times, the Respondent has been required to develop environmental quality objectives, guidelines and policies to ensure environment protection.

Particulars

POEA Act s 9(1)(a).

33 Further, at all material times, the Respondent has been obliged to develop environmental quality objectives, guidelines and policies:

(a) which are adapted to ensuring "environment protection" within the meaning of s 9(1)(a) of the POEA Act;

(b) which any reasonable authority would develop if the authority were endeavouring to ensure "environment protection" within the meaning of s 9(1)(a) of the POEA Act.

Particulars

These duties arise on the proper construction of s 9(1) of the POEA Act.

34 Further, at all material times, the Respondent has been:

(a) empowered to develop draft policies in accordance with Chapter 2 of the POEO Act; and

Particulars

POEO Act s 12(1).

(b) obliged to develop draft policies in accordance with Chapter 2 of the POEO Act to ensure environment protection;

Particulars

POEO Act s 12(1); POEA Act s 9(1)(a).

(c) obliged to develop draft policies in accordance with Chapter 2 of the POEO Act:

(i) which are adapted to ensuring "environment protection" within the meaning of s 9(1)(a) of the POEA Act; and/or

(ii) which any reasonable authority would develop if the authority were endeavouring to ensure "environment protection" within the meaning of s 9(1)(a) of the POEA Act.

Particulars

These duties arise on the proper construction of ss 12(1) of the POEO Act and s 9(1) of the POEA Act.

Correspondence between the Applicant and the Respondent

35 Between June and December 2019, the Applicant engaged in correspondence and discussions with the Respondent requesting that the Respondent identify the environmental quality objectives, guidelines and policies it has developed that address climate change and its impacts, to ensure the protection of the environment pursuant to s 9(1) of the POEA Act.

Particulars

- i. Letter from the solicitors for the Applicant, the Environmental Defenders Office (**EDO**), to the Environment Protection Authority (**EPA**) dated 4 June 2019
- ii. Letter from the EPA to the EDO dated 18 June 2019
- iii. Letter from the EDO to the EPA dated 22 July 2019
- iv. Letter from the EPA to the EDO dated 9 August 2019
- v. Letter from the EDO to the EPA dated 10 September 2019
- vi. Meeting between the Applicant and the Respondent dated 24 October 2019
- vii. Letter from the EDO to the EPA dated 11 November 2019

36 In response to those requests, the Respondent has provided the Applicant with copies of three documents prepared by the NSW Government, and dated November 2016, being the *NSW Climate Change Policy Framework*, and two fact sheets titled "Climate Change in NSW", and "Emissions in NSW".

Particulars

- i. Letter from EPA to EDO dated 13 December 2019

Breach of duties

37 In order to discharge the duties on the Respondent described in paragraphs 32 to 34, it is necessary for the Respondent to develop guidelines, policies and/or draft policies which:

- (a) address the topics of greenhouse gas emissions and climate change;
- (b) address the environmental impacts of greenhouse gas emissions;

- (c) regulate sources of direct and indirect greenhouse gas emissions consistent with limiting global temperature rise to 1.5°C above pre-industrial levels;
- (d) are adapted to reducing direct and indirect sources of greenhouse gas emissions consistent with limiting global temperature rise to 1.5°C above pre-industrial levels;
- (e) are calculated to keep greenhouse gas levels at a level which is appropriate, having regard to the best available science;
- (f) ensure environment protection;
- (g) are adapted to ensuring environment protection.

38 At all material times, the Respondent has not developed environmental quality objectives, guidelines and policies which:

- (a) address the topics of greenhouse gas emissions and climate change;
- (b) address the environmental impacts of greenhouse gas emissions;
- (c) regulate sources of direct and indirect greenhouse gas emissions consistent with limiting global temperature rise to 1.5°C above pre-industrial levels;
- (d) are adapted to reducing direct and indirect sources of greenhouse gas emissions consistent with limiting global temperature rise to 1.5°C above pre-industrial levels;
- (e) are calculated to keep greenhouse gas levels at a level which is appropriate, having regard to the best available science;
- (f) ensure environment protection;
- (g) are adapted to ensuring environment protection.

39 Further, at all material times, any authority in the position of the Respondent which was endeavouring to ensure “environment protection” within the meaning of s 9(1)(a) of the POEA Act would have developed environmental quality objectives, guidelines, policies and/or draft policies which:

- (a) address the topics of greenhouse gas emissions and climate change;
- (b) address the environmental impacts of greenhouse gas emissions;
- (c) regulate sources of direct and indirect greenhouse gas emissions consistent with limiting global temperature rise to 1.5°C above pre-industrial levels;
- (d) are adapted to reducing direct and indirect sources of greenhouse gas emissions consistent with limiting global temperature rise to 1.5°C above pre-industrial levels;

- (e) are calculated to keep greenhouse gas levels at a level which is appropriate, having regard to the best available science;
- (f) ensure environment protection;
- (g) are adapted to ensuring environment protection.

40 In the premises, the Respondent has breached the duties set out in paragraphs 32 to 34.

Relief sought

41 Pursuant to ss 65(1) and 69(1) of the *Supreme Court Act 1970* and ss 20(2)(a) and 20(3)(a) of the *Land and Environment Court Act 1979*, orders in the nature of mandamus requiring the Respondent to:


- (a) develop environmental quality objectives, guidelines and policies to ensure environment protection; and
- (b) develop draft policies in accordance with Chapter 2 of the POEO Act to ensure environment protection.

SIGNATURE OF LEGAL REPRESENTATIVE

Signature

Capacity

Date of signature


Employed Solicitor for the Applicant

15/4/2020