

**BOARD OF THE
ENVIRONMENT PROTECTION AUTHORITY**

TO: THE CHAIR AND MEMBERS

Minutes of Meeting No 170
21 February 2006 - 3.00 pm
Boardroom, 7/77 Grenfell Street, Adelaide

1.1 MEETING OPENED

The meeting was opened at 3.10 pm by the Chair.

1.2 PRESENT

Dr Paul Vogel (Chair)
Mr Stephen Hains (Deputy Chair)
Ms Megan Dyson (Member)
Mr Mike Elliott (Member)
Mr Vic Farrington (Member)
Mr Andrew Fletcher (Member)
Mr Allan Holmes (Member)
Mr Michael Nagel (Member)
Ms Ann Shaw Rungie (Member)

Ms Nada Popovic (A/Executive Officer to the Board)
Ms Corinne Kelly (Secretary to the Board)

1.3 APOLOGIES

None.

1.4 DECLARATION OF INTEREST

A new pro forma has been developed for recording Board Members' interests at each meeting. The signed document(s) will be provided to the Minister at the same time as the Minutes and Communique.

Due to his employment, Mr Hains declared an interest in agenda item 5(i)(c), EPA matters before the Court and agenda item 5(iii)(c), Current Investigations and Prosecutions.

Due to his employment, Mr Farrington declared an interest in agenda item 5(v)(a) "Uranium In-Situ Operations - Licensing under the *Environment Protection Act 1993*".

1.5 TABLED ITEMS

Agenda Item 6(i)(a)	Chief Executive Performance Review Process
Agenda Item 1	EPA Board Declaration of Interest form for the Minister for Environment and Conservation

2. CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING

Following discussion the Board resolved that:

the Minutes of the meeting held on 13 December 2006 be taken as read and confirmed.

Carried

Minutes to be signed by Dr Vogel.

3 DRAFT COMMUNIQUE FOR 13 DECEMBER 2005

Following discussion the Board resolved to:

- (i) *agree that the purpose of the Communique is to provide information on major decisions of the Board and matters of principle and policy;*
- (ii) *approve the communique for placement on the web, subject to:*
 - *the Mount Lofty Ranges Watershed Protection Office update being removed; and*
 - *inclusion of the Board's general principles for the use of monies gained from prosecutions in the section related to funding environment projects on Kangaroo Island from the Environment Protection Fund.*

Carried

Action: Ms N Popovic

Copies of the Minutes of Meeting No 169, the Communique and declarations of interest, to be sent to the Minister for Environment and Conservation.

Action: Ms C Kelly

4. ACTIONS ARISING FROM PREVIOUS MINUTES AND FORWARD AGENDA

The Chair provided a report on action items arising from the previous Minutes.

Following discussion the Board resolved to:

request that the following changes are made to the document:

- *Item 5(ii) (Civil Penalty Policy Project Plan) - remove the shading as the issue has not been finalised;*
- *Item 13 (Strategic Planning and Review Session) - the Board will hold a high level review of the Strategic Plan in April, and a*

Discussion Paper will be prepared before April by a small working group (Messrs Holmes, Vogel, Fletcher, Elliott and Nagel);

- *Item 20 (Expenditure against key EPA functions) - the information from the Victorian EPA has now been received and a paper will be provided for the 21 March 2006 meeting.*

Carried

Action: Ms C Kelly

Appointment of two new Board members

Dr Vogel expressed thanks on behalf of the Board, to Mr Vic Farrington and Ms Ann Shaw Rungie, whose terms of appointment expire in March and April respectively.

Dr Vogel advised that the Governor appointed Mr Gregory Panigas from 4 March 2006 to replace Mr Farrington and Ms Yvonne Sneddon from 21 April 2006 to replace Ms Shaw Rungie.

Mr T Circelli, Director Corporate Strategy, Governance and Communications Division, entered the meeting at 3.40 pm.

5. OPERATIONAL ITEMS

5(i) Corporate Strategy, Governance and Communications Division Report

Mr Circelli reported on his Division's performance indicators and strategic plan priorities:

- Site Contamination Bill;
- Environment Protection (Noise) Policy;
- Environment Protection (Waste to Resources) Policy;
- Civil Penalties;
- Container Deposit Legislation;
- Position Statement on Precautionary Approach;
- Engagement Strategy; and
- Strategic Partnerships.

He outlined other key initiatives:

- Performance Improvement Program;
- Delegations Instrument Review;
- Web Review;
- Market Research Program; and
- Media Report.

The three issues and risks for this Division are:

- Roundtable 2006;
- Communications and Public Affairs Branch; and
- Strategic Policy Branch vacancies.

Following discussion the Board resolved to:

- (i) *request that the Chief Executive discuss options for project support in the development of the Environment Protection (Waste to Resources) Policy with the Chief Executive, Zero Waste SA;*
- (ii) *request that a summary and analysis report of recent media stories be provided at each Board meeting as part of Mr Circelli's presentation.*

Carried

Mr T Whitworth, Manager Industry and Sustainability Branch entered the meeting at 4.05 pm.

5(i)(a) Environment Protection (Beverage Containers) Amendment Bill 2006

Following discussion the Board resolved to:

- (i) *note the proposed amendments to improve the efficiency of the CDL system by addressing a number of systemic issues;*
- (ii) *recommend that the Minister release the draft Environment Protection (Beverage Containers) Amendment Bill 2006 and explanatory report for public consultation;*
- (iii) *note the project timeframe;*
- (iv) *note the communications plan;*
- (v) *advise the Minister that it strongly supports the Government's resolve to encourage other States to follow South Australia's lead in developing CDL legislation;*
- (vi) *note members comments on the explanatory paper and provide these to the Project Officer;*
- (vii) *seek clarification on proposed amendments to S106 of the Environment Protection Act 1993 regarding the issue of appeal rights for super collectors.*

Carried

Action: Mr T Whitworth

Mr Whitworth left the meeting at 4.20 pm.

5(i)(b) Better Programs, Management and Accountability in the EPA - Review of Performance Indicators

Following discussion the Board resolved to:

- (i) *note the progress on reviewing the EPA's performance indicators;*

- (ii) *endorse the outlined approach and timeline;*
- (iii) *seek a regular status report on this initiative as part of the Director's Board Report;*
- (iv) *note that Mr Nagel would like to assist with the development of the KPI plan, once a first draft has been prepared.*

Carried

Action: Ms C Watkins

5(i)(c) EPA matters before the Court (including a list of EPA requests for CSO advice)

[Note: The Board did not enter into any discussion on this paper and sections of the paper relevant to Mr Hains' declared interest were not provided to him.]

The Board resolved to:

note the report.

Carried

Mr Circelli left the meeting at 4.40 pm.

6(iii) Chief Executive as Chair of the Board

Following discussion the Board resolved to:

present its view on the role of the Chief Executive as Chair of the Board at its next meeting with the Minister.

Carried

Dr P Vogel

Allan Holmes left the meeting at 4.55 pm.

Mr Kevin Buckett, Director Public Health, Health SA, Mr M Harvey, Director Regulation and Compliance Division and Ms K Montgomerie, Acting Manager Northern Operations entered the meeting at 4.55 pm.

5(iii)(b)OneSteel

Following discussion the Board resolved to:

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(ii) *request a further update paper in three months.*

Carried

Action: Ms K Montgomerie

The Chair thanked Mr Buckett for attending the meeting and he and Ms Montgomerie left the meeting at 5.20 pm.

5(iii) Regulation and Compliance Division Report

Mr Harvey reported on his Division's performance indicators and strategic plan priorities:

- risk based approach to licensing;
- licence fee review; and
- increased emphasis on compliance auditing by region.

He outlined other key initiatives:

- Zinifex lead reduction program;
- risk based environmental monitoring; and
- waste management at Wingfield.

The top three issues and risks for this Division are:

- Novar Gardens - section 7 of *Land and Business (Sales and Conveyancing) Act*;
- waste management - most significant issues for 2006 are the relationship between EPA and Zero Waste SA; landfill guidelines and assistance to local government; and
- Teramin - a proposed lead/zinc mine 2 kilometres outside of Strathalbyn.

Following discussion the Board resolved to:

request briefings on the following issues:

- (i) Collex Waste Incinerator, Kilburn;*
- (ii) Inman River, Victor Harbor pollution; and*
- (iii) the outcome of the section 7 issue in Novar Gardens.*

Carried

Action: Mr M Harvey

Ms B Venner, Senior Environment Protection Officer entered the meeting at 5.45 pm.

5(iii)(a) Licence Fee Structure Project

Following discussion the Board resolved to:

- (i) *endorse a 35% load based component in the overall licence fee structure, as a starting position for consultation;*
- (ii) *endorse the use of a fee cap and an adjustment to the zone weighting of lead emissions to air in Port Pirie from 5 to 30, as the preferred method of addressing the major anomaly in the load based component for Zinifex Port Pirie;*
- (iii) *release the Discussion Paper for public consultation at the earliest opportunity;*
- (iv) *extend congratulations to all the staff involved with this Project, and commend them on the high quality of work that has been produced.*

Carried

Action: Ms B Venner

5(iii)(c) Current Investigations and Prosecutions (including list of fines received by the EPA as a result of prosecutions)

The Board resolved to:

note the report.

Carried

Mr Harvey and Ms Venner left the meeting at 6.15 pm.

Mr J O'Daly, Director Corporate and Business Services Division, Mr P Dolan, Director Science and Sustainability Division and Mr K Baldry, Director Radiation Protection Division, entered the meeting at 6.15 pm.

5(ii) Corporate and Business Support Division Report

Mr O'Daly reported on his Division's performance indicators and strategic plan priorities:

- Finance and Administration:
 - guidelines and training for financial and procurement delegations;
 - accommodation;
 - mid year budget review; and

- budget update.
- Human Resources and Development:
 - review and update of HR delegations;
 - Executive focus and leadership development course completed, assessing further options;
 - learning and development plan 2005-06 approved;
 - OHS&W policies, procedures progress; and
 - HR statistics.
- Information Technology:
 - GIS Strategy;
 - business continuity plan;
 - PC and printer replacement program;
 - Mt Gambier server issues fixed;
 - access to Board papers via WEB; and
 - applications development update.

He outlined other key initiatives:

- whole of government procurement reform;
- CE now required to answer set questions relating to fraud each year as part of financial statement certification;
- Performance Improvement Program (accommodation plans for new structure, development of staff information packs, Vacancy Internal Operating Procedure, union consultation).

The three issues and risks for this Division are:

- mid year budget review revenue reduction;
- vacancies in the Corporate and Business Support Division; and
- long term accommodation planning.

Mr O'Daly left the meeting at 6.30 pm.

Mr P Dolan, Director Science and Sustainability Division, entered the meeting at 6.30 pm.

5(iv) Science and Sustainability Division Report

Mr Dolan reported on his Division's performance indicators and strategic plan priorities:

- clean and healthy air - air quality forecasting system;
- water quality that meets agreed environmental values - implement water-related codes of practice;
- communities protected from unacceptable noise - relationships with other authorities;

- sustainable land use - DA Process Improvement; work collaboratively with Planning SA;
- promoting the adoption of eco-efficient practices by business - expand eco-efficiency and industry sustainability programs; working on eco-efficiency training for Kilburn area;
- developing strategic partnerships and ensuring stakeholder engagement; support local government.

He outlined other key initiatives:

- Dairy SA to develop statewide dairy shed effluent guidelines;
- Beverage Container Compliance Program.

The three issues and risks for this Division are:

- creation of Science and Sustainability Division;
- shortage of noise expertise; and
- early involvement in development proposals.

Mr Dolan presented a statistical report on Development Assessment Performance.

5(iv)(a) Analysis of non-compliance with statutory timeframes for Development Applications

Following discussion the Board resolved to:

- (i) note the findings of the analysis of non-compliance with the statutory timeframe requirements for development applications;*
- (ii) commend staff on the excellent progress made to date and advise that it is keen to see further progress take place with the full implementation of the General Environmental Information (GENI) IT system.*

Carried

5(iv)(b) Local Government Sub Committee - Local Government/EPA Agreement

Following discussion the Board resolved to:

- (i) approve the Memorandum of Agreement (MoA) between the EPA and local government, subject to no adverse comments from the Crown Solicitor's Office;*
- (ii) note that approval of the MoA will be sought from the State Executive Council of the Local Government Association at its March 2006 meeting;*

- (iii) *note that the Local Government Subcommittee will review the MoA after 12 months operation.*

Carried

Mr Dolan left the meeting at 7.00 pm.

Mr V Farrington declared an interest in the following item and left the meeting at 7.00 pm.

5(v) Uranium In-Situ Leach Mining - Licensing under the Environment Protection Act 1993

Following discussion the Board resolved to:

- (i) *note technical advice that all mining and processing activities at Beverley fall under the Environment Protection Act 1993 (EP Act) licence, however only those activities with an assessed unmanaged risk presently attract conditions to the EP Act licence;*
- (ii) *note the various pieces of legislation that are used to regulate in-situ leach (ISL) mining and processing activities at Beverley;*
- (iii) *note that conditions under the current licence are sufficient to address the risks of which the Board is aware, and that there are also conditions being applied under the Radiation Protection Act that need to be managed;*
- (iv) *request that a review take place by the Board should there be a determination that there are risks which are not being managed;*
- (v) *request that the EPA writes another letter to the Australian Conservation Foundation, clarifying the EPA's interpretation of the EP Act.*

Carried

Action: Mr K Baldry

Mr Farrington re-entered the meeting and Mr Baldry left the meeting at 7.17 pm.

6. STRATEGIC ITEMS

6(i) REPORTS

Chair's Report

As this was Mr Farrington's last meeting of the Board, the Chair once again extended the Board's thanks and wished him well with his new role in Darwin as Manager of the NT URS Office.

The Chair provided a brief update on the following matters:

- Zinnifex, Port Pirie;
- Business Leaders meeting with senior EPA staff.

6(i)(b) EPA Board 2006 Consultation Program

Following discussion the Board resolved to:

endorse the proposed Board consultation program for 2006.

Carried

Mr Fletcher tendered his apologies for the 16 and 17 May 2006 regional consultation in Whyalla and Port Pirie.

The Chair advised that Board meetings would not be held in regional areas due to the need for Director's to be present.

6(i)(c) Regional Landfills Working Group

The Board agreed that this was a facility offered to regional councils and would be used on an as-needs basis.

Members' Reports

6(i)(a) Chief Executive Performance Review Process

Following discussion the Board resolved to:

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- (ii) provide feedback directly to Mr Hains regarding the content of the draft performance agreement by Tuesday, 14 March 2006;*
- (iii) defer consideration of this matter until the 21 March 2006 meeting;*
- (iv) authorise Mr Hains to finalise Mr Dennis Mutton's account.*

Carried

**Action: Ms N Popovic and
Mr S Hains**

6(ii) *Culture Change and Performance Improvement Program*

Following discussion the Board resolved to:

- (i) *note the progress achieved during the December-February period;*
- (ii) *note the proposed new organisational structure and intended benefits;*
- (iii) *note the key milestones planned for the following five month period.*

Carried

7. MATTERS DEALT WITH OUT OF SESSION

7(i) **Delegations under the *Environment Protection Act 1993***

The Board formally resolved to:

- (i) *revoke the previous delegation instrument dated 13 December 2005; and*
- (ii) *delegate its powers and functions in accordance with section 115 of the Environment Protection Act 1993 as provided in the new instrument supplied out of session to members of the Board.*

Carried

8. CORRESPONDENCE

- (i) Outgoing - Mayor Michael Pengilly, Kangaroo Island Council regarding the possibility of the EPA funding a relevant environmental project through the Environment Protection Fund
- (ii) Outgoing - Hon Dean Brown MP regarding the disposal of wastewater from tourist buses on the Fleurieu Peninsula

9. CLOSE

The Chair closed the meeting at 7.35 pm.

10. DATE OF THE NEXT MEETING

The next Board meeting will be held at 3.00 pm on Tuesday, 21 March 2006 in the EPA Boardroom, 7th floor, 77 Grenfell Street, Adelaide.

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Dr Paul Vogel

CHAIR

/ /2006

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Ms Corinne Kelly

SECRETARY TO THE BOARD