

## EPA Board Protocols – May 2023

EPA Board Protocols as agreed at the 2 May 2023 EPA Board Meeting – Item No. 171.7(a)

### I. Meetings

No.	Action	Protocol
I.1	EPA Board meetings	<p>EPA meetings to be scheduled on the first Tuesday of each month unless changed by a decision of Board or the Chair and Director agree that there is insufficient business to warrant a meeting.</p> <p>Board meetings will be held on-line and members can participate on-line or in person.</p> <p>The Deputy Member is requested by the Chair to act in place of a Board Member if that Board Member is absent or unable for any reason to act as a Board Member.</p> <p>The Deputy Member serves on the Board in place of an ordinary Board Member of the Board only when the ordinary Board Member is temporarily or permanently prevented from discharging their duties. The Deputy Member of the Board accordingly has the rights and obligations of a Member of the Board, and the Deputy Member's participation in decision-making and responsibility for decisions made are unequivocal.</p> <p>The Chair may invite the Deputy Member of the Board to attend Board meetings even when they are not serving in place of an ordinary Member. They may participate in discussions and provide their expertise to the deliberations of the Board. However, they are not in an active decision-making role if all Members of the Board are present. Where a vote of the Board is required, the Chair will determine how this is proceeded.</p> <p>If a scheduled meeting is to be cancelled Board members will be advised as soon as possible but in any case at least 2 weeks before the scheduled date.</p> <p>Special meetings may be required to enable statutory timeframes for assessments to be met. The likely need for such meetings will be flagged as early as possible but, in any case, at least 10 business days prior to the proposed meeting date. The Manager – Environmental Engagement will make arrangements for such meetings to the satisfaction of the Chair.</p> <p>The Director may request the Chair to hold a special meeting if they consider there are urgent issues which need to be discussed or determined.</p>

No.	Action	Protocol
		<p>Where the Board is to assess a significant level 2B or level 2C proposal, the Assessment Officer is to provide the Board with a verbal briefing at the meeting prior to the assessment being tabled with the Board for decision.</p> <p>For relatively straightforward proposals, the Manager – Environmental Assessments may elect not to provide a verbal briefing at the meeting prior to it being considered.</p>
1.2	Meeting Papers	<p>Agenda papers for scheduled meetings will be uploaded to Microsoft Teams on the Tuesday/Wednesday preceding the meeting date. The Executive Officer will email all Board members to confirm the upload.</p> <p>There is to be an agenda paper presented at each meeting providing a summary of the exercise of the Board's delegations by relevant officers and update on the assessments in progress being undertaken by the Division.</p> <p>Individual members may request that hard copies are mailed to them on a regular or specific basis.</p> <p>Late papers may only be included on the agenda with the Chair's prior agreement.</p> <p>Agenda papers for special meetings, assuming that these are to deal with a limited agenda, will be provided at least 4 business days prior to the meeting date.</p>
1.3	Minutes of Meetings	<p>Draft minutes to be available for review within 10 business days of the meeting.</p> <p>Minutes are to include an action list and information included on the register of decisions</p>

## 2. Provision of Information

No.	Action	Protocol
2.1	Board members seeking additional information for listed meeting items	<p>Particularly in relation to assessments which must be completed within statutory time frames, members are encouraged to flag any requirements for additional information prior to the Board meeting so that EPA staff can have the information to hand at the meeting.</p> <p>Members should make contact with the Division, in the first instance, through the Manager – Environmental Engagement for general board items and the Executive Director – Environmental Assessments for assessment related items and copy in all other members to the information request.</p> <p>The Manager – Environmental Engagement will copy additional information in response to such requests to all members.</p>

### 3. Representations

No.	Action	Protocol
3.1	Handling of representations received in relation to permit applications	<p>The EPA Environmental Assessments Branch to include full copies of all representations in relation to a permit application in the agenda papers circulated to members prior to a meeting.</p> <p>The EPA Environmental Assessments Branch to include an evaluation of all issues raised in representations in the Environmental Assessment Report.</p>

### 4. Appeals

No.	Action	Protocol
4.1	Notification of receipt of an appeal	The Director to promptly notify the Chair on receipt of notification that an appeal against a Board decision (including a delegated decision) has been lodged and then include details of the appeal and its progress in the agenda papers for the next Board meeting.
4.2	Attendance at Directions and Mediation hearings	<p>On behalf of the Board, EPA staff to provide documentation to the tribunal as directed.</p> <p>A delegated officer will represent the Board at these hearings. Where appropriate (e.g. modification of the Board's conditions) the Director will consult the Chair in relation to any proposals to resolve the appeal at this level.</p>
4.3	Representation at full Tribunal hearings	If the appeal proceeds to a full hearing, the Director will request the Office of the Solicitor General (Civil Litigation) to provide representation for the Board at the appeal and liaise with the Chair regarding the evidence or other material to be presented.
4.4	Notification of outcome	The Director to promptly advise the Board when notified of the outcome of an appeal and include details of this and any issues arising from the appeal decision in the agenda papers for the next Board meeting.

## 5. Communication

No.	Action	Protocol
5.1	Minutes of Meeting	Following the ratification of the Minutes of a Meeting they will be published on the EPA website.
5.2	Media Releases	The letter to Council advising of the Board's assessment decision should include a draft copy of the media release. The EPA Communications Co-ordinator will check the draft media releases to communicate significant Board decisions such as permit approvals. Following approval by the Chair the EPA Communications Co-ordinator will distribute the releases to appropriate media outlets, all Board members and the Minister's Office and assist the Chair, as required, to deal with any media follow-up.
5.3	Media contact	Any Board member who is approached by the media to provide comment on any issue will, in the first instance, refer the media enquiry to the EPA Communications Co-ordinator.
5.4	Stakeholders/Members of the Public	Any Board member who is approached by stakeholder or members of the public to provide comment on any issue can, in the first instance, refer the enquiry to the EPA Communications Co-ordinator

## 6. Out of Session Decisions

Note: 6.1 and 6.2 apply only to agenda items that have first been discussed at a normal or special meeting.

No.	Action	Protocol
6.1	Minor corrections or modifications to an Assessment Report or conditions to be made as agreed during a meeting.	The Board may authorise the Chair to verify that the appropriate amendments have been made and to complete the Board's decision.
6.2	<p>Further information to be provided to resolve a matter that cannot be decided at a meeting.</p> <p>OR</p> <p>Significant redrafting of a section of an Assessment Report and / or permit conditions.</p>	<p>Further information and a recommendation will be circulated by the Manager – Environmental Engagement to all Board members.</p> <p>Board members will respond by e-mail to the Chair, copying in other members + EPA staff in the originating e-mail.</p> <p>The Board will authorise the following alternative courses of action.</p> <p>(1) For non-controversial assessments:</p> <p>(a) If the Chair assesses that all members are satisfied with the information and supports the recommendation they will advise the Director that they may exercise their standing delegation to complete the assessment on the Board's behalf.</p> <p>OR</p> <p>(b) If any member considers that further discussion is required the decision will be deferred to the next scheduled meeting if practicable or, if not, a special meeting will be organised to deal with the matter.</p> <p>For potentially controversial or high profile assessments:</p> <ul style="list-style-type: none"> <li>The matter will be deferred to the next scheduled meeting if practicable or, if not, a special meeting will be organised so that the Board will be seen to be the decision-maker.</li> </ul>

No.	Action	Protocol
6.3	<p>Special Out of Session Meetings – These will usually involve matters that have not been raised at a regular EPA Board meeting and may include circumstances where:</p> <ul style="list-style-type: none"> <li>• An urgent matter has arisen that the Board must consider and make a determination on; or</li> <li>• Where a regular meeting has insufficient agenda items and is cancelled but there is an item(s) that can be dealt with via an electronic / online meeting (e.g. fee remissions, requests for funding, items for noting etc.). These will usually be relatively straightforward / simple matters.</li> </ul>	<p>Where a special meeting is to be held, the Chair and the Director will determine whether the meeting can be held electronically (straightforward matters) or that an online meeting may be required (generally when the matter is more complex / controversial).</p> <p>Once this is determined, the Executive Officer will coordinate a date / time in consultation with all Board Members as soon as practicable.</p> <p>Where an online meeting is to be convened, the Executive Officer should provide the relevant papers to the Chair who will approve them prior to circulation to all Board Members via email.</p> <p>The Chair's email should as a minimum:</p> <ul style="list-style-type: none"> <li>• Request that if any member believes they have an interest in a matter on the agenda they should inform the Chair and not participate in the consideration of that matter; and</li> <li>• Request members to inform the Chair by email whether: <ul style="list-style-type: none"> <li>○ They support the recommendations as presented in the Board Briefing Paper; or</li> <li>○ They believe that further information or discussion is required before they are able to reach a conclusion regarding the recommendations; or</li> <li>○ They believe that the recommendation(s) in the Board Briefing Paper require modification before they support the recommendation(s).</li> </ul> </li> </ul> <p>On receipt of all responses, the Chair will determine that either the Board has resolved to make the decision set out in the recommendation or that it has decided that a decision on the matter should be deferred.</p> <p>If any Board Member responds as per options 2 or 3, the Chair will then determine whether the concerns of the Board Member(s) can be resolved electronically or whether an online meeting is required to further discuss the issues raised before making a resolution. The Chair may also determine that the item(s) be deferred until the next regular EPA Board Meeting.</p>