**Private and Confidential Document by Clayton Utz**

# EDUCATION AND HEALTH STANDING COMMITTEE

## QUESTIONS FOLLOWING THE HEARING
## WEDNESDAY, 6 JUNE 2007

## ESPERANCE PORT AUTHORITY

## The Magellan proposal

**1.1 In relation to the Port's Weekly Planning Meeting Minutes of 28 September 2004 there is an item under planning 4.1 concerning the CEO's report on the capital works approval process being underway stating *"provision of shore based crane for Berth 2 was critical".* The same item goes on about Trevor Watters visit highlighting PPE, and potential locations to store lead. Why was a shore based crane at berth 2 seen as critical in relation to the export of lead? Did this happen? What arrangements were put in place instead?**

This question was answered at the Parliamentary Inquiry hearing on 6 June 2007.

However, this comment is in relation to Ravensthorpe Nickel Project, not any procedure or operation in relation to the Ports handling of lead concentrate.

**1.2 Did you ever assess the appropriateness of the loading facilities at Esperance for smaller bulk carriers for lead?**

This question was answered at the Parliamentary Inquiry hearing on 6 June 2007.

**1.3 In March 2005 a delegation from the Port went to the Magellan site because of concerns that the lead loading at the Port would involve *"the product passing through 12 transfer points and along 9 different conveyors to reach the ships hold. Only three of these conveyors are fully enclosed and a number of components of the loading system are exposed to the elements making it virtually impossible to avoid the escape of dust generated in transporting the concentrate. The degree to which the prill product may break down to form hazardous lead impregnated dust is impossible to quantify without testing the prill form under similar conditions".* It also noted that the dangers where significantly different to nickel. A trial of the product occurred in April and the 'prill' was broken down as a result of the transport. Why did this export go ahead?**

This question was answered at the Parliamentary Inquiry hearing on 6 June 2007.

**1.4 The CEO's report to the Board on 21 March 2005 states that, at the time of the site visit by the Port delegation, the agglomerator had only recently been available to Magellan and that the agglomerator would turn the lead *"concentrate into prill/pebble like product".* Would you like to comment?**

This question was answered at the Parliamentary Inquiry hearing on 6 June 2007.

**1.5 The CEO's report to the Board on 21 March 2005 also states that uncertainty about the dust from handling the product is creating OHS concerns and that an independent OH&S consultant and the dust suppressant, Polo Citrus, would address these problems. The independent consultant reported the next day, clearly basing his advice on the assumption that the product would be in "prill" form. We have another submission from a significant stakeholder which also states that the product export went ahead on the assumption that it would be in prill form. The product was certainly never a pebble-like product and the moist agglomerates broke down in transport. Did the CEO notify the Board when the agglomeration did not work?**

In terms of formal Board communications, Colin Stewart discussed certain issues with the Board in November 2006 in terms of the substituted written report entitled 'Heavy Metals Handling Summary' provided to the Board at its November 2006 meeting, but not before. Please also refer to the written submissions of Ian Mickle and Colin Stewart's answers to the questions of the Parliamentary Inquiry hearing in Perth on 6 June 2007.

**1.6 Did the CEO advise DEC Albany office that the agglomeration did not work?**

Liaison with the DEC Albany office was done by the Environmental Officer, who verbally discussed this issue with the DEC.

**1.7 Did the CEO tell the Board that he had advised the DEC Albany office that the agglomeration did not work?**

No, because the CEO did not personally inform the DEC.

**1.8 On an undated of Lead Export Implementation Tasks document list, Colin Stewart was listed as being tasked with considering replacing belts on CV 5 and CV7 to reduce carry back and therefore spillage during ship loading. The comment listed is dated 12/05/05 and states *"Estimated to be $10,000 each for CV5 and CV 7. CV 3 would be approximately $50,000 and cost may not be warranted."* Was the work on CV 5 and CV7 completed? When? Was the work on CV3 completed? Why not?**

This question was answered at the Parliamentary Inquiry hearing on 6 June 2007.

**1.9 What is the net debt policy of the State government with reference to limiting infrastructure at the Port?**

The Treasury/ERC capital expenditure approval process focuses principally on the potential impact on the States Net debt level. The State has established a target that net debt should not exceed 47% of SDP. The actual net debt is calculated as being total assets less total liabilities.

The Esperance Port (and all other ports in Western Australia) are commercial organisations that only invest in order to facilitate trade. As self funded Government Trading Enterprises, the Ports generate revenue for themselves and ultimately the Government.

The implications are that, regardless of the commercial viability of a particular project, the net debt policy can constrain a Ports ability to raise funds, and as a result it could be constrained by the Governments "whole of portfolio" assessment of capital expenditure.

**1.10 The citrus dust suppressant appears to have only been installed after some 15 shipments - in November 2006 after the first recorded major dust problem with loading the lead carbonate. Would you comment on the delays in implementing this apparently crucial measure?**

This question was answered at the Parliamentary Inquiry hearing on 6 June 2007.

**1.11 More recently it has been reported that the polo citrus does not work as a suppressant of the lead carbonate dust. Would you comment on whether anyone knew what they were doing in relation to this product?**

This question was answered at the Parliamentary Inquiry hearing on 6 June 2007.

## Dust minimisation and monitoring

**1.12 Is it true that there are superior dust minimisation measures for the loading of iron ore, such as a closed materials loading system and negative pressurisation, as opposed to a covered but not enclosed loading system for lead and nickel?**

This question was answered at the Parliamentary Inquiry hearing on 6 June 2007.

**1.13 Why did the Port replace high volume with dust gauge sampling in November 1995 after a year of handling iron ore (see Annual Environmental Report 2006)?**

This question was answered at the Parliamentary Inquiry hearing on 6 June 2007.

**1.14 Can you explain how the lead concentrate is tested for moisture content at unloading?**

This question was answered at the Parliamentary Inquiry hearing on 6 June 2007.

**1.15 In the DEC audit report from May 2005 it refers to Brambles managing the Nickel - while the Port was to moisten the lead. Is that correct?**

This question was answered at the Parliamentary Inquiry hearing on 6 June 2007.

**1.16 In en email of 4 August 2005, the Port's environmental consultant advised BIS that the product was under Brambles control until the product is on the unloading belts. Also In a report dated 12 October 2006 concerning the loading of the ship on 10 October 2006, it is recorded that the product representative would not allow the Brambles to wet the product I the shed because of the problems with TML (Transportable Moisture Limit). Could you please confirm which agency managed the moisture content of the lead concentrate in the shed?**

This question was answered at the Parliamentary Inquiry hearing on 6 June 2007.

**1.17 Did the Port install the sprinklers in the old Western Mining shed in which it stored the lead?**

This question was answered at the Parliamentary Inquiry hearing on 6 June 2007.

**1.18 When did you reinstall the dust control equipment in the heavy metal conveyers? Why were these removed? When were they removed?**

This question was answered at the Parliamentary Inquiry hearing on 6 June 2007.

**1.19 Is it true as reported to the Board in relation to the rainwater tank monitoring (date is not clear - attachment for Board meeting) that of the seven monitoring sites four are on Port employee's land? Why? Why was the proposal put that *"Ongoing monitoring will continue, predominately at Port owned residences?"***

The Port owns various blocks of vacant land and residual properties in close proximity to the Port. The monitoring was conducted at these locations as they were geographically close to the Port and thought to provide the best location in relation to assessing possible environmental and operational concerns as a result of dust leaving the Port.

There were both rainwater tank and dust monitors at non employees' residences.

However, as the majority of the residences near the port are inhabited by Port employees, it is both scientifically credible and less intrusive to monitor these premises.

**1.20 Would the Port like to comment on the issue raised by CSIRO when attempting to test its dust monitor from February 2006 was that there was so much dust that it fell out of the gauge making any reading inaccurate?**

We do not understand the nature or the scope of this question.

The Port was not aware that CSRIO collected samples from Esperance for the purpose of analysing dust.

The Port never collected samples on behalf of the CSIRO for the purpose of analysing dust.

The Port collected samples, that it sent to a laboratory for testing. The laboratory for its own reasons subcontracted CSIRO to process and analyse these samples for them on one occasion.

The gauges were never sent to the laboratory, rather the product in them. The gauges would collect water and dust. The Port would then collect this substance, decanted it into sample bottles and sent to the laboratory in sterilised bottles.

## Personal Protective Equipment & Blood Tests

**1.21 In item 6 of the Board meeting minutes of 28 September 2006, it is recorded that the CEO confirmed product continues to handle well with recent increases in blood lead levels investigated. It is noted that Board requested that staff be advised that inadequate or incorrect use of PPE causing adverse OHS results ultimately impacts on the bonus. What bonus is being referred to? That bonus is approved as a lump sum divided by the number of staff isn't it? Are all staff members blood tested? Who conducts the blood tests? Are the results made available to the staff?**

The blood tests are conducted by PathWest, independent of the Port. All personnel are tested and receive their results. Personal results are kept confidential from other staff members, except for management.

The bonus that was mentioned refers to the annual bonus awarded to employees based on performance during the financial year.

**1.22 Why did the Port advise its workers in its Basic Lead Awareness Induction that short term exposure to lead was not of concern?**

The Port understands from consultant experts that there is no risk to human health for short term, low level exposure to lead concentrate. Short term, low level exposure is the level that was plausible that the Port workers could be exposed to.

In any event the Port workers had ongoing health surveillance in relation to possible exposure to lead.

This view was also based on the independent occupational hygiene and physiological advice provided to the Port on this issue.

Further, the Port relied on the information provided by Magellan in relation to their product and the short term, low level exposure.

The Port based its induction training on the independent advice it received, and on the induction training given by Magellan at their mine site. This comment was a part of Magellan's induction.

**1.23 Why didn't the Port distinguish male and female employee blood level reports given the lower exposure permitted for females of reproductive capacity?**

The Port does not have any female operational employees.

Female employees at the Port and prospective employees of the Port are provided, at their induction, a full disclosure of the impacts on females and particularly those relating to reproductive capacity. All female employees are required to acknowledge, in the form of a consent form, that they understand this information prior to commencing their employment.

**1.24 Over the period from 1 April 2005 to 31 December 2006 the CONTAM (personal dust monitor) samples resulted in 9 of the 87 results were above the recommended level for lead exposure. In eight of those cases, the exceedance was attributed to people working with the lead - cleaning spills, unblocking conveyors or lading the material. Although those employees presumably had appropriate protective clothing and apparatus, did this not indicate to you that whenever the lead was being handled high levels of dusting was occurring? Would this not concern you in terms of the potential contamination of the areas adjoining the Port? In particular given the delays in receiving your dust monitoring analysis? Who selected the employees who would wear the CONTAM devices?**

No, because the only CONTAM results that contained high levels were on workers that were working with lead. High CONTAM levels do not correlate in any way to potential contamination in the areas adjoining the Port.

It is not unusual that employees who are involved in tasks with close contact with lead, have CONTAM levels that could exceed the exposure standards.

However, we highlight that all employees engaged in this type of work were required, by the Port, to wear appropriate PPE. Further, all employees were under constant health surveillance and all exceedances were followed up.

## Particular instances of abnormal dust emissions

**1.25 The Port has provided this Committee with a series of General Report Sheets completed by its staff about problems with lead dust, spillages from the conveyor belts and leaking from the lead shed. By December 2005 a supervisor wrote to a team leader and leading hands about the need to clean the counterweight and area around the trains - quote *"Until the dust levels can be controlled with the mine site lifting the moisture levels".* A few days later there is another report of more extremely dusty product arriving by train, followed by another delivery which caused dust problems. Were these reports related to the lead concentrate? Why did the Port continue with this product given the ongoing problems with dusting and spillages?**

No, these reports are in relation to iron ore.

**1.26 Was the spillage of between 60 to 100 kilograms of lead into the sea reported on 11 January 2006 (General report sheet) reported to DEC under section 72 of the Environmental Protection Act? Why? Doesn't it fall within your definition of an environmental spill as provided by the Port to the Committee earlier?**

An administrative oversight meant that it wasn't initially reported to the Ports Environmental Officer. There was however, a procedural change to eliminate the future risk of this type of spill occurring again. The spill has now been reported.

**1.27 A General Report Sheet of 23 February 2006 reports of an accident when a bucket hit the feeder causing a product spill and caused an adjuster to break. It is reported that visibility is poor due to dust conditions. Another General Report Sheet of 23 February 2006 reports problems with a dusty product causing dust to pour off the counterweight at conveyor 9 and that adding water did not make much difference. The Supervisor's comments record that the mine had shut to work on the dust problem. Although it does not specify that the mine is Magellan, I note that there is an unusual gap in lead trains between 1 and 12 March 2006. Is the reference to the Magellan mine?**

No, these General reports relate to iron ore, and a shut down at the Portman iron ore mine.

**1.28 Did the Port report the abnormal lead dust emissions on 10/10/06 (described by the Port as resulting in "Port personnel, ships crews, vessel and ship loader [being] covered in lead dust."), 11/12/06 and 5/03/07 and the spill on 5/12/06 (that took three hours to clean up) to any agency? When did it make these reports?**

The Port did not make a formal report to the DEC under section 72 of the Environmental Protection Act.

There is no other formal avenue under the Environmental Protection Act for the Port to formally report any dust emissions or minor spillages to the DEC which occurred during normal operations.

However, the Port did provide Daniel Endacott, from the DEC, with an informal report and a summary of the Jin Pei loading, via email dated 14 March 2007.

It must be noted that a ship loading can take up to 48 hours. The dust emissions experienced on these occasions were not for the duration of the shipment. As soon as visible dust is generated the procedure is for operational employees to take all appropriate steps to prevent further dust generation including the shutting down of the loading system until a remedy can be obtained.

In relation to the Port's licence obligations, the ship loading of the two Lemmergrachts and the Jin Pei were noted to be dusty, however, visible dust did not leave the boundaries of the Port. Therefore, there was no obligation for the Port to officially report these incidences as it was contained within the Port boundaries at all times. The

spill referred to above was a spill on the berth and was contained within an area. The spill was an operational spill, as previously explained to the Parliamentary Inquiry, and therefore we believe that there was no obligation to report such an incident to any agency.

The Port did, however, meet with the representatives from Magellan on 19 October 2006 to discuss this issue. The Port also planned a "Beyond the Minesite" workshop for lead and nickel producers on 4 December 2006. The DEC was invited to participate in this workshop, but declined due to them being in Albany and that this was too far to attend.

**1.29 Why does the Port's general report investigation form require abnormal noise events recorded in the register to be reported to DEC within 21 days - but has no equivalent for registered abnormal dust emissions?**

The Port has an obligation under their Regulation 17 Noise Approval, to report abnormal noise events within 21 days.

The Port does not have any obligation to report an abnormal dust emission, unless it is of such an extent that it breached the obligations contained within the Port's licence.

As mentioned at 1.28 the Port did not make a formal report to the DEC under section 72 of the Environmental Protection Act as the Port did not consider that these occasions amounted to the level of severity that section 72 requires.

**1.30 Why was the dusty shipment on 29 October 2006, reported to the Port's Board as part of the Environmental Status Report of November 2006, not recorded in the abnormal dust emissions register or in the shift log?**

The ship loading of the Edamgracht was not a dusty ship. There are no general reports associated with dust and with the loading of this ship and no notes in the shipping log, incidence reports, abnormal dust register of dust issues with this shipment.

**1.31 The incident of 10/10/2006 was described as the Port as involving *"very dusty product"* and *"a small vessel"* covering the Port workers, ship crew, vessel and ship loader in lead dust. In the same presentation, as part of its Beyond the Mine workshop, the Port also stated that the selection of vessels could impact on dust and refers to smaller vessels being lower in the water and the product having further to fall. That workshop was on 4 December 2006. Did the Port have any concerns about loading the same Spliethoff ship with lead carbonate on 11 December 2006?**

The Port did have concerns about loading this ship.

The Port had actively and voluntarily made a decision not to accept the Spliethoff vessels into their Port.

However, at the time this decision was made this vessel had already been chartered by another mining company to deliver containers to Esperance Port as part of the BHP Billiton nickel project. Therefore, a decision was made to accept this last vessel.

The operational staff were acutely aware and took additional care to minimise dust emissions.

**1.32 In an email of 18 January 2007 a Port worker states that at the time of loading on 10 October, the same ship had already been accepted by the harbour master to reload in a month's time, so that the Harbour Master quote *"could not refuse the vessel"*. Is that correct? The Port's evidence is that, relying upon expert advice, it appreciated the risks associated with lead carbonate. Can you explain the decision to reload the same ship with lead carbonate given these problems encountered and the risks to public health involved?**

See question 1.31.

**1.33 On 11/10/2006 another employee recorded a General Report Sheet about the lead dust and stated that although the water sprays were used on conveyor 3 the product was still too dusty and that the poly citrus made the product too sticky and block the chute. The response - similar to previous ones - was that the product would be monitored at the mine site for dust levels. Why did the port continue with the export of this product?**

The port arranged a meeting with Magellan representatives on 19 October 2006 to discuss the issues relating to the dry product.

The Port thought that this issue could be managed operationally and continued to undergo further liaisons with Magellan to assist them to optimise the product.

The Port put its confidence in Magellan that it would deliver a product suitable for handling at the port.

**1.34 What happened as a result of the abnormal dust emissions on 10 October 2006 and 11 December 2006? Did the investigation on 18 October with Magellan reps which was recorded as being the measure taken by the Port to prevent or minimise similar events occur? What was the result? Did the *"emergency meeting"* with the product owners to determine the application of a *"dust bind"* agent recorded as being the measure taken by the Port to prevent or minimise similar events to 11 December occur? Did this happen? What happened?**

This has been initially addressed in 1.28.

The meetings between the Port and Magellan highlight the fact that they were continuously addressing these issues. Magellan undertook to investigate a dust bind to assist with dust control. The Port planned and held a workshop 'Beyond the Mine site Workshop' which focused on the recent problems associated with the handling of heavy metal concentrates, with a view to developing an action plan for addressing these problems.

**1.35 Between 11 December 2006 and 5 March 2007 another four vessels were loaded with lead carbonate were they not?**

Yes.

**1.36 The final loading on 5 March 2007 also had significant problems with dust emissions? More bird deaths were again reported within days - our records show between 7 to 10 March? Can you confirm that you were aware that there had been two major dust emission problems with the loading of lead carbonate on 11 December 2006 and 5 March 2007 on both occasions followed by large scale bird deaths? Did you think this was a coincidence? Did you not suspect that there may be a connection between the emissions and the bird deaths? Why did the Port continue the export of lead carbonate until 12 March 2007?**

As mentioned in 1.28 the loading of a ship can take up to 48 hours. If dust is generated the operational staff are required to act quickly to minimise any emissions and shut down loading if required. Emissions noted do not continue through out the ship loading.

When the results from birds testing by the DEC came back in January and were reported as being inconclusive, the CEO assumed that there were no issues with its operations.

The DEC and Shire asked the port to erect signs on the ornamental lakes at the Ports entrance as they were suspicious that the deaths may have been related to algae contaminated water.

The Port was also conscious that pigeons were living and breeding in the lead shed. Cape Barren Geese and swallows were also living within the boundaries of the Port. The Port was also aware of the large number of bird deaths at the same time which occurred in Narembeen and Bruce Rock.

Together with this information and the information provided by the DEC, the Port personnel were of the opinion that if lead was not impacting on the birds living in the Port and birds from other country towns were also dying, it was unlikely that the reported bird deaths were linked to the Port.

If the Port had been provided with the information from the DEC on the levels of lead in the birds, the port would have taken immediate action at that time not to load any more lead vessels.

In the end the Port voluntarily ceased the export of lead concentrate before any authority made such a request.

**1.37 Why was there a dust problem with the loading of the lead concentrate on 5 March 2007?**

The product arrived with a lower moisture content. Esperance had zero rainfall, was experiencing a heat wave with an average temperature of 30 degrees Celsius and North

Easterly winds of up to 10 knots. All of these factors increased the dustiness of the product.

**1.38 Did the Port report any of the above discharges to DEC as Section 72 Waste Discharge Notification under the Environmental Protection Act? If yes - did you provide copies to the Committee? If not - why not?**

No, because we believe that there was no obligation to do so. In accordance with their licence the Port only had an obligation to report to the DEC in relation to their licence for dust emissions that extended beyond the Port boundaries or discharges that were classified as environmental spills as opposed to operational spills, which has previously been discussed with the Parliamentary Inquiry.

**1.39 Did the Port report any other discharges to DEC in relation to lead?**

The Port did not formally report any other spills.

**1.40 Did the Port report any spills to the Resources Safety Division of Department of Consumer and Employment Protection? Which ones? Were copies of these reports included in the materials provided to this Committee? If not - please provide.**

The Port did not report any spills to this entity.

**1.41 There is an email from the DEC officer in Albany dated 28 January 2007 raising an anonymous complaint passed on by someone who is a friend of a Port worker. The claim is that the Port worker said there were large spills of lead in October and December 2006 and continual spilling of product form the conveyor belts. In response, the Port's environmental consultant emails other Port employees stating that she has asked DEC to have the quote '*original complainant to make the complain anonymously to DEC so that DEC can make a formal complaint through their formal system and we can have accurate details rather than hearsay form a 3rd party'.* To date no other response to DEC on this complaint has been located in the documents provided. Did the Port respond other than as outlined? On the evidence before this Committee what is dismissively referred to as "hearsay from a 3rd party" appears remarkably accurate. Would you like to comment?**

The Port encourages employees to report any incidents on its general report form so that it can be investigated and followed up, and so that accurate information is given on the form. The Port was attempting to get the complaint documented so it could carry out an appropriate investigation.

## Board

**1.42 Was the Board aware of elevated benthic nickel levels since 2002? What did it do about this?**

The matter was brought to the Board' s attention at the following board meetings:

(a) January 2003;

(b) April 2003;
(c) May 2003;
(d) June 2003; and
(e) May 2004.

**1.43 Could the Committee be provided with the list of consultants used by the Port over the last three financial years?**

Glossop Consultancy
Environeer Pty Ltd
Stephen Kee - Occupational Hygienist
Clayton Utz
Purple Communications
John White, WSP Environmental
George Porrins, senior engineer, Belfinger Berger
Oceanica P/L
J&J Tucker Environmental Solutions Pty Ltd
Wastewater Treatment Systems Australia
Golder and Associates
PPR WA Pty Ltd Errol Considine
Jacqueline Stenhouse Business Consultant
Professor Ng
Industry Support
Stedman Ellis Consulting
Environmental Risk Solutions
Esperance Environmental
PriceWaterHouse Coopers
JFA Consultants Pty Ltd
G13
Oceanica Consultants Pty Ltd
WSP Environmental
Kim Risebourgh
Dr Brian Galton-Fenzi

**1.44 The Committee was advised by your legal representatives that a document provided to us as an attachment (D8) to the Port's submission was not the final version of the Heavy Metals Handling Summary that was provided to the Board in November 2006. The version originally provided was far more detailed, and made specific reference to:**

- **the concentrate being in very fine granular form rather than "prill" form, that it is solar dried and parts are very dry and powdery and thus prone to dust;**
- **the un-tarping of six kibbles at a time for unloading into the hopper in place of the previous practice of only un-tarping one kibble as being 'not practical';**

- **problems with the sump filling quickly after wash-down following the unloading of a train and creating a dust source as it dries out waiting to be collected and returned to the shed;**
- **states that prior to handling the lead the WM shed was completely sealed, although General Report Sheets from Port staff, photographs by the Shire and notices issued by DEC indicate that this was not the case;**
- **Documents improvements to only some of the conveyors, and specifically states a number of conveyors are not fully enclosed, and that 'loading during windy conditions results in the product being blown form the belts onto the berth and covering the shiploader.**
- **States that since the removal of the telescopic loading chute, it does not reach into the hatch during loading, with lead and nickel falling to the berth and ocean when windy.**
- **States there is no overhead sprays in any heavy metal storage shed and that watering is done manually; that there is no procedures for monitoring of water content on arrival, or for watering down prior to loading out.**
- **the water spray installed on the ship loading chute prior to lead export is not used due to fears of TML;**
- **Details of the problems with ship loading of 10 October 2006 and states that it was found that if the chute was placed at an angle "less dust would be visible during loading" and that the product representative did not want contractors wetting down the product in the shed because of the TML; and that the ships crew had received no information regarding the product or precautions to be used.**

  **Is that information correct?**

  **Who saw this document? Specifically, did members of the Board see it/was its contents discussed with them?**

This question was answered at the Parliamentary Inquiry hearing on 6 June 2007.

**1.45 The original attachment to the Port's submission D8 is referred to in the submission as "A summary presentation in October 2006 and Colin Stewart (CEO) to the Esperance Port Authority Board, at their request, of heavy metals handling (nickel and lead) issues demonstrates the board's proactive interest in these matters, the diligence of the Authority in seeking best practice and the significant improvements made since the commencement of lead handling in July 2005." The reference in the index to Part D of the submission refers to D8 as "Heavy metal handling presentation 12 October 2006". The Port subsequently replaced this**

**document with an abbreviated "Heavy Metals Handling Summary" and stated that "the Board meeting in which this presentation was given was on 9 November 2006". Could you please confirm that there was no presentation to the Board or any Board members in October 2006?**

There was an error in the original submission noting the Board meeting was in October as opposed to the correct month of November. However, this amendment has already been clarified to the Inquiry at the hearing on Perth on 6 June 2007.

At the same time the Inquiry was provided with the correct attachment provided to the Board at this November Board meeting. Colin Stewart still provided a presentation in terms of the substituted 'Heavy Metals Handling Summary' report and the comments in the submissions are therefore still relevant and correct.

**1.46 There is no reference in the substituted Summary (D8) which was tabled at the Port Board meeting of November 2006 to the issue of product not meeting specifications, but there is a great deal about dusty product in the Heavy Metals Handling Summary document originally provided. Would you agree that this indicates that the Board's discussion about the Heavy Metals Handling Summary extended beyond the issues directly raised in the substituted document?**

The extent of the Board's discussion of matters relating to the shipment of lead carbonate at its November 2006 meeting was limited by the information provided to the Board in the substituted 'Heavy Metals Handling Summary' report. It is true to say that the Board had a consistent interest in the health and welfare of the Esperance Port Authority employees and the minutes of Board meetings demonstrate this fact.

**1.47 Why was the original telescopic chute removed?**

This question was answered at the Parliamentary Inquiry hearing on 6 June 2007.

**1.48 Could you comment on the Minutes of the Board meeting on 23 March 2007 which records that the CEO "indicated current exposure of the Port could be capitalised on at a later date when funding is sought for projects like the Transport Corridor upgrade"?**

The comment was that while there was a focus on the Port by the government there may be opportunity for the Port to highlight some of the urgent areas that need attention in Esperance, such as the transport corridor.

**1.49 Could you comment on the Minutes of the Board meeting on 23 March 2007 which records that the Board had discussion concerning the options for shipping product - being as ingots, pellets, or containment in bulker bags.**

At this meeting the Board made a resolution not to handle lead concentrate in bulk form.

**1.50 The minutes on 23 March 2007 record that the Board was also advised at that meeting that the same DEC officer who was involved in the original approval process relating to the transport of lead carbonate through**

**Esperance was "commissioned… to review handling procedures with the view to finding an acceptable method for shipping the product". What did the Board think of the appointment of the same officer to handle the review who had been part of the original approval processes?**

The DEC officer was commissioned by the DEC to conduct the licence review as she was familiar with the Esperance Port operations. There was no objections to this appointment.

**1.51 Why did the Board's Chairman advise the Esperance Community via a newspaper ad that the cause of high levels of benthic heavy metals was the result of the storm in January 2007, when very high levels had in fact been detected in October 2006?**

In order to further clarify, the Chairman was referring only to the high lead levels in the area surrounding the exit of the storm drains.

**1.52 On 15 June 2005 the Board entered into the agreement to export lead. On the same date advice was tabled from the CEO that a number of policy and infrastructure changes needed to be made for the safe handling of lead (Attachment to Board Meeting Minutes 15/6/05 Item 5.5.1). Why did the Board approve the agreement before the policies and infrastructure were in place?**

The Board evaluated the procedure and was assured that all the policies and infrastructure improvements, that were not yet complete, were underway and would be in place before the first shipment was expected in July.

## Financial Profile of Port

**1.53 How much is the annual budget of the Port Authority?**

Gross Revenue $27 million.

Gross Profit $3.5 million.

**1.54 What is the value of goods going through the Port Authority in total?**

This varies due to commodity prices and $AUS. It is in the range of $4.5 to $5.5 billion.

**1.55 What is the value to the Port of the handling and export of lead concentrate?**

The gross annual revenue generated by lead exports was approximately $550,000.

**1.56 Do you know what royalties are paid on these goods to the State Government? to the Federal Government? Can you find out?**

No.

## Material Safety Data Sheet

**1.57 You were provided by Magellan Metals with a Material Safety Data Sheet, dated April 2005, that categorised lead carbonate as a class 9 *"miscellaneous"* dangerous good. Did you handle the Magellan product appropriately as a class 9 miscellaneous dangerous good?**

The Port did handle the lead concentrate product appropriately.

The Material Safety Data Sheet's classification of lead carbonate as a Class 9 dangerous good does not impose any legal obligation to handle the product in accordance with dangerous goods legislation and regulations, unless it was classified as such by the Department of Consumer and Employment Protection's Resources Safety Division, as is required by the Australian Dangerous Goods Code.

The Material Safety Data Sheet includes guidelines on how the product should be safely handled. The guidelines require personal protective equipment to be worn by personnel handling the product, spills be promptly cleaned up using a method that minimises dust generation, personnel to wash thoroughly after handling the product, the product be stored in a roofed enclosure, and staff be trained in safe handling practices. The Port handled the product in accordance with all these guidelines.

**1.58 Were you aware that Magellan had previously provided a ChemAlert Material Safety Data Sheet (from the RMIT - Royal Melbourne Institute of Technology) to the Department of Environment and Conservation which classified lead carbonate as a class 6.1 dangerous good, that is as a toxic substance? It also classified it as UN # 3288 - a toxic solid for shipping purposes, requiring level I packaging. Subsequently, Magellan obtained a Material Safety Data Sheet for its lead carbonate from Chemical Safety Associates Inc (US) which classified it as a class 9 miscellaneous dangerous good; it also classified it as UN# 3077 an environmentally hazardous substance requiring level III packaging. Would your handling of the lead carbonate have been different if it was a class 6.1 dangerous good as opposed to a class 9? What would the differences have been?**

The Port was not aware that Magellan had obtained a Material Safety Data Sheet which classified their product as a class 6.1 dangerous good.

If the Port had been aware that lead carbonate had this classification, the Port's handling of the product would have been different because it would have been required to act in accordance with dangerous goods legislation and regulations. For example, DOCEP's Resources Safety Division would have been required to approve the Port's storage of lead carbonate. The Port would have placed a placard on the storage shed with a Class Label, which states the dangerous good class, and an Emergency Information Panel, which includes the proper shipping name of the product, the UN identification number, any Hazchem Code assigned to the dangerous good and the expression "IN EMERGENCY DIAL 000, POLICE OR FIRE BRIGADE". Also, Port personnel would have been trained in the handling of Class 6.1 dangerous goods.

**1.59 Based on the Magellan Material Safety Data Sheet in your possession which identified its lead carbonate as a environmentally hazardous substance, did you not consider that the large number of bird deaths reported in mid December 2006 might be the result of the problems in loading the vessel with lead carbonate on 11 December 2006? Why did you not suspend the lead exports at that time? Why did you wait until there was confirmation some three months later that the bird deaths were the result of lead poisoning?**

During the loading of the lead shipment on 11 December 2006, the Port followed all procedures and took appropriate steps to prevent dust generation.

The Port did not cease export at this point in time as not only were they were taking precautionary steps, as mentioned in question 1.35, the DEC was not of the view that the birds deaths were related to lead. Also the Port was aware that there was no similar affects on the many species of birds that live and breed within the Ports boundaries, together with the facts that there were similar bird deaths in Bruce Rock and Narambeen at the same time as in Esperance.

Nevertheless, the Port was concerned to minimise dust in any event and continued to work closely and cooperate with the relevant authorities over this process.

**1.60 On the Lead Export Implementation Tasks document of 15 April 2005 provided by the Port, Colin Stewart was identified as tasked with sourcing a MSDS for the Magellan lead carbonate because the one in circulation *'is not the Magellan product'*. Which MSDS was in circulation? Why was that not provided in the Port's documentation? Was it the Chem Alert MSDS which states that lead carbonate was a toxic substance? Did you think that Magellan's carbonate was not toxic? Why?**

In April 2005, Magellan provided the Port with a generic MSDS. The Port required an MSDS which specifically related to Magellan lead carbonate. Consequently, Magellan sought the assistance of Dr Galton-Fenzi, Occupational health physician, to prepare an appropriate MSDS. This was then provided to the Port in May 2005, and was in circulation from that date on. This updated MSDS was provided in the Port's documentation. As the MSDS provided by Magellan did not state that their product was toxic, there was no reason why the Port would assume that it was toxic.

## Clean up after contamination

**1.61 Where are the holding tanks for the sludge from the rain water tanks to be located? And what is the final destination for the sludge when taken from these "holding tanks"?**

The holding tanks are at the Port. DEC has made an official decision that the Port must transport the holding tanks back to Perth via road and dispose of the 'sludge' in Perth.

## Additional Questions

### 1.62 On what occasions did the Port mix the product?

The Lemmergracht on 11 December 2006.

### 1.63 What was the moisture levels of two the Lemmergracht shipments?

8.23% on both occasions.

### 1.64 What did the CEO tell the Board in relation to Lead Concentrate after the programme commenced?

The CEO told the Board members the following at the Board meetings:

(a) 22 July 2005: First Lead shipment was a success, they have conducted the blood tests of employees.

(b) 28 September 2005: CEO informed the Board that there were increased lead levels in a few Bramble employees due to the reported failure to wear protective clothing and the Port was working to address this issue.

(c) 19 October 2005: CEO discussed the Lead product and how it is handling.

(d) 19 December 2005: CEO informs the Board that the DEC inspectors have said that the Port has complied with all its licence requirements.

(e) 25 September 2006: CEO reports the rainwater tank levels and reports on the safety and occupational procedures.

(f) 9 November 2006: CEO reported to the Board at its request about the handling of heavy metals at the Port. This was the first occasion the Board had any formal notification of any difficulties with the specification of the product or its handling generally. The Board agreed that the CEO is within his rights to refuse the product from Magellan if the handling characteristics are not within agreed specifications.

(g) 19 December 2006: CEO detailed to the Board the events of the 'Heavy Metal Workshop', and advised that he had communicated with exporters that odour and dust would not be tolerated at the Port and that exporters should take appropriate action to remedy the defect(s) in the product(s) accordingly.

(h) 6 February 2007: CEO reported that no evidence had yet been provided to him that linked the Port's handling of lead with the bird deaths.

(i) 12 March 2007: CEO discusses lead contamination.

(j) 23 March 2007: CEO discusses lead contamination.