ASX ANNOUNCEMENT

6 May 2021

REVIEW OF REVOCATION OF POOLED DEVELOPMENT FUND REGISTRATION - UPDATE

MEC Resources Limited ("**MEC**" or the "**Company**"), on 12 March 2021, advised that the Department of Industry, Science, Energy and Resources ("**Department**") had appointed new review officers in relation to the revocation of MEC's PDF registration as a result of the Company contravening ss19(1), 27, 27A and 42 of the Pooled Development Fund Act 1992 ("**PDF Act**")[1].

Internal Review Process

Newly appointed review officers of the Department had previously confirmed that MEC had met all the requirements of an internal review request which in turn is governed by s55 of the PDF Act. MEC also provided additional information to the Department before 5pm 18 March 2021.

Delegate Decision

The Delegate of Innovation and Science Australia, as required by s55(5) of the PDF Act, has reconsidered the Committee's decision of 3 February 2021 and following review of further information provided by MEC on 18 March 2021 and 15 April 2021, the Delegate has informed MEC via letter dated 30 April 2021 that he confirms the Committee's decision of 3 February 2021 to revoke MEC's registration declaration as a PDF under s47 of the PDF Act.

A copy of the letter is attached to this announcement.

Next Steps

As the Delegate has reaffirmed the Committee's decision to revoke MEC's PDF registration, MEC will now proceed to apply to the Administrative Appeals Tribunal under the Administrative Appeals Tribunal Act 1975 for review of the decision by the PDF Board. This appeal notice will be lodged before 28th May 2021.

MEC had previously requested that the revocation only be given effect at the end of all appeals process.

On 23 April 2021 MEC also submitted a referral to the Commonwealth Ombudsman in relation to the revocation. MEC will also now consult its legal advisors in relation to the actions of the prior company officers responsible for the lodgment of the returns with the Department the subject of the revocation decisions.

This announcement has been approved by the David Breeze Managing Director of MEC.

David Breeze
Managing Director
MEC Resources Ltd

[1] ASX release 12 March 2021 – Review of Revocation of Pooled Development Fund Registration

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Australian Government

Department of Industry, Science, Energy and Resources

Mr David Breeze
Managing Director
MEC Resources Limited
Level 1, 9 Bowman Street
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Dear Mr Breeze

Internal Review of Decision Request
under s55 of the *Pooled Development Funds Act 1992*
MEC Resources Limited [ABN 44 113 900 020]

On 3 February 2021, the Innovation Investment Committee of Innovation and Science Australia (the Committee) agreed to revoke MEC Resources Limited's (MEC's) registration declaration as a pooled development fund (PDF) for contraventions of ss19(1), 20A(2), 27, 27A, 42 of the *Pooled Development Funds Act 1992* (the PDF Act), under s47 of the PDF Act.

On 4 February 2021, the Department of Industry, Science, Energy and Resources (the department) notified MEC of the Committee's decision to revoke its registration declaration under s47 of the PDF Act. The notification set out the reasons for the Committee's decision to revoke the declaration, as required by s47(2) of the PDF Act.

Request for an internal review of decision under s55 of the PDF Act

Under ss55(1) of the PDF Act, the person affected by a reviewable decision may request that the decision be reconsidered within 21 days of receiving written notice of the reviewable decision. On 26 February 2021, MEC requested under s55(1) of the PDF Act the Committee reconsider its 3 February 2021 decision. I note the request:

- was made in writing as required under s55(1) of the PDF Act;
- was made within 21 days of the departmental notification which was within the required 21 day timeframe for a request for internal review under s55(2) of the PDF Act; and
- included MEC's reasons for making it as required under s55(4) of the PDF Act.

Reconsideration of the decision

Under s55(5) of the PDF Act on receipt of a request to review a reviewable decision, Innovation and Science Australia (ISA) must reconsider the decision and may confirm or revoke it, or vary it in such a manner as it sees fit.

Consistent with your rights under s55(5) of the PDF Act, the department arranged an opportunity for your application to be reconsidered.

I, as a delegate of Innovation and Science Australia (the delegate), agreed as required by s55(5) of the PDF Act, to reconsider the Committee's decision of 3 February 2021 within 60 days from internal review request dated 26 February 2021, that being 27 April 2021.

I note on 10 March 2021 and 7 April 2021 the department provided opportunities to MEC to submit further information to support its position. I note on 18 March 2021 and 15 April 202, MEC provided further information to support its position for me to consider.

Delegate decision

On 23 April 2021, I confirmed the Committee's decision of 3 February 2021 to revoke MEC's registration declaration as a PDF under s47 of the PDF Act.

Reasons for confirming the decision to revoke PDF registration

In confirming the Committee's decision to revoke MEC's registration declaration, I considered MEC's 26 February 2021 request for review and further clarification of reasons provided on 18 March 2021 and 15 April 2021. My reasons for the decision are as follows:

- The decision was correctly made based on the contravention of several provisions of the PDF Act. On reconsidering the Committee's decision and the information available to the Committee in making its decision, I was satisfied MEC's breaches of ss19(1), 20A(2), 27, 27A, 42 of the PDF Act were correctly established and based on the facts. It is therefore an appropriate application of ISA's discretion under s47(1) of the PDF Act to revoke the PDF for such breaches.
- The new information that became available as part of the internal review process was the reasons for MEC requesting an internal review, specifically:
    - MEC considered one set of facts is only able to give rise to one breach;
    - the department failed to particularise breaches;
    - the Committee acted solely on the basis of information provided to it by the department; and
    - consequences of revocation for MEC.
- I noted the new information did not materially change the basis on which the original decision was made. I noted MEC did not dispute the set of facts giving rise to the breaches. Registered PDFs are subject to certain conditions under the PDF Act, including compliance with ongoing obligations in the PDF Act.
- I noted the department provided MEC with particulars of the breaches, in writing, on three occasions, each time a decision was made by the Committee. I also noted the department followed the process in s47 of the PDF Act for discretionary revocation, including providing opportunity for MEC to respond to the breaches and correct information it provided in relation to the breaches.
- I noted the departmental recommendations to the Committee were provided to MEC each time in writing, prior to the Committee reaching its decision and on at least four occasions. MEC was advised the department provides its assessment to the committee to assist in its decision making and facilitates the provision of all material provided by applicants to the Committee. As the decision maker, the Committee turns its mind to the issue/s at hand and reaches its own conclusion.

- I noted MEC considers it should not be held responsible for breaches committed by a previous board, however it is the same company regardless of internal governance changes.
- The decision is proportionate to the severity of the contravention of ss19(1), 20A(2), 27, 27A, 42 of the PDF Act relating to the core function of PDFs which is making eligible investments. I noted as making investments is the predominant activity of PDFs, contravention of provisions related to making investments are considered significant breaches of the PDF Act. The objects and framework of the Act clearly restrict PDF activities and ensure the funds raised are used in accordance with the intent and objects of the program. Please find at Attachment A to this letter a table with each breach detailed and the internal review finding in regard to each breach.

Publication of the decision

Section 48(2) of the PDF Act requires the publication of a notice in the Gazette, stating a PDF's registration declaration has been revoked under s47(1) of the PDF Act, as soon as practicable after the decision is made.

On 12 February 2021, a notice was published in the Gazette advising MEC's registration declaration has been revoked under s47(1) of the PDF Act. On 23 February 2021, a link to the Gazettal notice was provided to MEC. On 25 February 2021, MEC advised the department it has notified its shareholders in writing it has ceased to be a PDF.

Review rights

Under s55(7) of the PDF Act, KGC may apply to the Administrative Appeals Tribunal under the *Administrative Appeals Tribunal Act 1975* for review of a decision confirmed under s55(5) of the PDF Act. I note this tribunal has strict timeframes and would encourage you to promptly make enquiries about the requirements for making an appeal if you are intending on pursuing your appeal rights.

Other matters

The department will notify the Australian Taxation Office of the revocation as it is a joint administrator of the PDF program.

I note MEC's obligations under the PDF Act are independent of any obligations owed pursuant to the *Corporations Act 2001 (Cth)* and Australian Stock Exchange (ASX) listing rules. The department cannot provide you with advice regarding any obligations MEC may have pursuant to the *Corporations Act 2001* or ASX listing rules.

I note on 23 April 2021, MEC advised it had lodged a referral to the Commonwealth Ombudsman and the Commonwealth Ombudsman may make direct contact with the department.

Please note the department cannot provide legal or taxation advice and would encourage MEC to consider seeking such advice if you have any questions of this nature.

Please contact venturecapital@industry.gov.au if you have any questions on this matter.

Yours sincerely

Frank Tonkin
A/g General Manager
Commercialisation
Science & Commercialisation

30 April 2021

Attachment A

Details of breaches and internal review finding

Item No	Description	Original decision of sections of the PDF Act breached	Internal review of sections of PDF Act breached	Facts / Evidence
1	Transaction 1 – 5 September 2019	19(1), 20A(2), 27	19(1), 20A(2), 27	• MEC did not hold at least 10 per cent of the total of all amounts paid on the issued shares in Intelligent IP immediately after transaction 1 was made on 5 September 2019, in breach of s27 of the PDF Act. • As the transaction was not made in accordance with Division 1 of the PDF Act, the transaction also breached s19(1) of the PDF Act. • On 16 December 2020, the original decision correctly found the transaction did not satisfy s20A(2) of the PDF Act, as the option was transferrable.
2	Transaction 2 – 1 November 2019	19(1), 27	19(1), 27	• MEC did not first hold 10 per cent of the total of all amounts paid on the issued shares in Intelligent IP immediately after transaction 2 was made, in breach of s27 of the PDF Act. • The original decision was correct in its assessment transaction 2 did not breach s20 of the PDF Act as there is no evidence the acquisition of shares were pre-owned shares. Section 20 of the PDF Act otherwise allows a PDF to make an investment by subscribing for or buying ordinary or other kind of shares in the investee company. • The original decision noted the breach of s19(1) of the PDF Act, as the investment was not made in accordance with Division 1 of the PDF Act. As s27 of the PDF Act falls under Division 1 of the PDF Act, the internal review agrees with the conclusion.
3	Transaction 3 – 1 November 2019	19(1), 27	19(1), 27	• MEC did not first hold 10 per cent of the total of all amounts paid on the issued shares in Intelligent IP immediately after transaction 3 was made, in breach of s27 of the PDF Act. • The original decision was correct in its assessment transaction 3 did not breach s20 of the PDF Act as there is no evidence the acquisition of shares were pre-owned shares. Section 20 of the PDF Act otherwise allows a PDF to make an investment by subscribing for or buying ordinary or other kind of shares in the investee company. • The original decision noted the breach of s19(1) of the PDF Act, as the investment was not made in accordance with Division 1 of the PDF Act. As s27 of the PDF Act falls under Division 1 of the PDF Act, the internal review agrees with the conclusion.
4	Transaction 4 – 7 January 2020	19(1), 27	19(1), 27	• MEC did not hold at least 10 per cent of the total of all amounts paid on the issued shares in Intelligent IP immediately after transaction 4 was made on 5 September 2019, in breach of s27 of the PDF Act. • As the transaction was not made in accordance with Division 1 of the PDF Act, the transaction also breached s19(1) of the PDF Act. • On 16 December 2020, the department found the transaction satisfied s20B(2) of the PDF Act..
5	Event 1 – 31 July 2020	42(2)(a)	42(2)(a)	• Mr Anthony Hamilton was appointed as a non-executive director of MEC on 31 July 2020. • The department was notified on 16 September 2020, 17 days after the legislative timeframe of 30 days.

6	Event 2 – 31 July 2020	42(2)(a)	42(2)(a)	• Mr Stephen Harris was appointed as a non-executive director of MEC on 31 July 2020. • The department was notified on 16 September 2020, 17 days after the legislative timeframe of 30 days.
7	Event 3 – 11 February 2020	42(2)(a)	42(2)(a)	• Mr Douglas Verly was appointed as a non-executive director of MEC on 11 February 2020. • The department was notified on 16 September 2020, 188 days after the legislative timeframe of 30 days.
8	Event 4 – 18 September 2019	42(2)(a)	42(2)(a)	• Mr Robert Marusco was appointed as a non-executive director of MEC on 18 September 2019. • The department was notified on 16 September 2020, 334 days after the legislative timeframe of 30 days.
9	Event 5 – 24 July 2018	42(2)(a)	42(2)(a)	• Mr Andrew Bald was appointed as a non-executive director of MEC on 24 July 2018. • The department was notified on 16 September 2020, 755 days after the legislative timeframe of 30 days.
10	Event 6 – 31 July 2020	42(2)(c)	42(2)(c)	• Mr Michael Sandy ceased to be a non-executive chairman on 31 July 2020. • The department was notified on 16 September 2020, 3 days after the legislative timeframe of 30 days.
11	Event 7 – 11 February 2020	42(2)(c)	42(2)(c)	• Mr Matthew Battrick ceased to be a non-executive director on 11 February 2020. • The department was notified on 16 September 2020, 143 days after the legislative timeframe of 30 days.
12	Event 8 – 17 December 2019	42(2)(k)	42(2)(k)	• MEC's registered address changed on 17 December 2019. • The department was notified on 16 September 2020, 230 days after the legislative timeframe of 30 days.