

Shareholder questions

Australian Ethical's shareholders have recently received material about the company's approach to answering written questions from shareholders. Given the recent distribution of that material to our shareholders, the company felt it important to clarify the law and the company's position on the answering of questions from shareholders.

The first point to make is that the company is not required to call for, accept or answer any written questions from shareholders, except that the company must accept written questions of the auditor in relation to their audit and make the questions of the auditor reasonably available to the members attending an annual general meeting (AGM).

Despite no requirement to do so, the company as part of its AGM materials invites shareholders to submit written questions.

It is important for shareholders to understand the context within which this invitation is extended.

Firstly, under the company's constitution the management and control of the business of the company are vested in the board, except in very rare circumstances as set out in the Corporations Act 2001 where a power can only be exercised by the company in general meeting.

Though the board may choose to listen to the comments of shareholders about the manner in which the board exercises its constitutionally based management and control powers, shareholders cannot exercise management powers directly or attempt to force the board to exercise management powers in a particular way through the passing of motions at a general meeting. Any such motion is not the valid business of a general meeting.

The invitation to shareholders to submit written questions recognises that many shareholders are unable to attend an AGM for various reasons. At an AGM, a chair must:

- allow a reasonable opportunity for members as a whole at the meeting to ask questions about or make comments on the management of the company;
- allow a reasonable opportunity for members as a whole to ask questions about, or make comments on, the remuneration report;
- allow a reasonable opportunity for members as a whole at the meeting to ask the auditor questions relevant to: the conduct of the audit; the preparation and the content of the audit report; the company's accounting policies; and the independence of the auditor.

There is no obligation on the company or the auditor to answer any verbal question put at a meeting, although the company will always try to do so where the question is a reasonable one that properly goes to the management of the company. Similarly, the company will always try to answer a reasonable written question.

However shareholders considering posing questions (whether verbal or written) should be aware that the company may choose not to answer questions which are not posed by shareholders in their capacity as shareholders. For example the company would likely decline to answer questions asked by employee shareholders about specific staffing issues; questions asked by a contractor / shareholder about outsourcing arrangements; or questions asked by former directors or employees using confidential information obtained in their capacity as a director or employee.

It's very important shareholders understand that, though the company is happy to consider answering their questions on the management of the company where it feels it is appropriate, this is something the directors are choosing to do.

Investment trusts: Phone 1300 139 447 **Email** trustadmin@austethical.com.au

Superannuation: Phone 1300 134 337 **Email** aes@austethical.com.au

Switchboard 02 6201 1988 **Facsimile** 02 6201 1987 **Website** www.austethical.com.au **Post** GPO Box 2435 Canberra ACT 2601

Australian Ethical Investment Ltd **ABN** 47 003 188 930 **AFSL** 229949 • Australian Ethical Superannuation Pty Ltd **ABN** 43 079 259 733 **RSEL** L0001441

© Registered trademark of Australian Ethical Investment Ltd.

Over the last three years the company has invited shareholders to submit written questions. The company has consistently indicated that it would answer questions on a thematic basis.

Questions and answers for the 2005 AGM are available on the company's website.

Attached to this document (Attachment A) are questions received and answers provided in respect of the 2006 AGM. Note that the 2006 answers to written questions were incorporated into the chair's address and not published separately. In 2006 the company did not specifically respond to written questions posed by a former director and employee at the AGM. As indicated above, the company is quite entitled not to answer either a verbal or written question. In the company's opinion the questions of the former director were not appropriately shareholder questions, being based on dealings that occurred while that person was acting in their capacity as a director.

This is not to say that the concerns of that former director have not been addressed by the board. They have been considered and dealt with on a number of occasions as detailed in Attachment B to this document.

Attachment A 2006 AGM questions

Note that answers to written questions were incorporated in the Chair's address. Relevant extracts from the address are provided in the following table.

Question	Theme	Answer
<p>AEI has holdings in ABC Learning Centres. This may be effective but is it ethical in relation to:</p> <ul style="list-style-type: none"> ▪ the alleged levels of staffing and staff salaries at ABC; ▪ the principle of making essential human services (here childcare) a profit-making industry? 	<p>Our charter and investments (note – by the time of the 2006 AGM, the Australian Ethical trusts did not hold, or were selling out of, investments in ABC Learning Centres)</p>	<p>See Chair's presentation – 'our charter and investments'.</p> <p><i>"The stock selection processes focuses on substantial research in all aspects of potential stock operation to ensure they meet the requirements of the Charter. There are occasions when discussion is robust and when not all investment committee members agree. Part of my role as Chair is to ensure that Australian Ethical is true to label and transparent, as this is the only way we will continue to generate confidence in the market place. There will be some investments where you will not agree with the stock selection, though I can assure you we take our obligations seriously to ensure that the stock is subject to a high level of scrutiny and maintains those characteristics that enable it to be part of the portfolio. We are constantly looking for appropriate investments. It is important that our breadth of stocks are broad enough to combat market changes in different sub-asset classes."</i></p>
<p>When does the board expect to achieve a majority of independent directors and will this mean an expansion of the current board or voluntary resignation of an existing executive director(s)?</p>	<p>Governance</p>	<p>See Chair's presentation – "governance"</p> <p><i>"As a listed company and fiduciary we must always ensure that we strike the right balance between our obligations to shareholders and our duties to our investors. The Board is supported in its obligations by a number of committees that enable focus on such issues as compliance, investment and finance. AEI will continue to operate this way as it enables robust discussion and attention to strategic detail which is very necessary in a company of its size. We also must remember that the AEI Group is getting more complex and is evolving into a medium size public company. It has a growing list of products, it is in a dynamic market, it is subject to close scrutiny by two regulators and it combines both internal infrastructure and key outsourcing to deliver on its imperatives.</i></p> <p><i>To this end we will continue to search for non-executive directors with appropriate skills and experience to ensure good governance and leadership. There is a process in place where each director's skills and knowledge are assessed in order that we can continue to fill gaps and address any weaknesses. It is imperative that each director makes a strong contribution and therefore the search is not easy. The aim is to meet the ASX governance principles in the relation to the proportion of independent directors, though this will not be done unless the fit of the person is right."</i></p>

Question	Theme	Answer
<p>What platforms are we listed on? What work needs to be done to get listed on platforms we are not currently listed on? Is our IT infrastructure capable of processing funds inflow via platforms, which commonly use highly automated processes? If not what plans are in place to lift this capability.</p>	Marketing and growth	<p>See Chair's presentation – 'marketing and growth'</p> <p><i>"We also acknowledge that financial planners play a key role in wealth management for many Australians. We are already on 24 platforms and will continue to pursue this distribution strategy. However we also recognize that with such a dynamic market many advisers are developing their own platform capability so it is vital that we continue to raise awareness direct with licencees and their representatives. This means that we will ensure that we have in internal capability to deal with large numbers of advisers through different platforms so that we can meet their service needs."</i></p>
<p>Australian Ethical Investment cut its dividend payout ratio from 80% to 57% between the 2005 and 2006 financial years. Is the board conscious of the signal the dividend policy sends to financial markets and what is the policy going forward?</p>	Dividend policy	<p>See Chair's presentation – 'dividend policy'.</p> <p><i>"The board indicated in the prospectus of 15 October 2002 (under which it floated on the ASX) that it intended to recommend to future Annual General Meetings that dividends be no less than the dividend pay-out ratio (on average) over the six years prior to issue of the prospectus. This was a figure, also set out in the prospectus, of about 40%. The board regards this statement as a firm indication of its intent on dividends, subject always to the fortunes of the company over time.</i></p> <p><i>In any one year, depending on circumstances, the payout ratio may be much higher than 40%. In some years it could be much closer to 40%."</i></p>
<p>Series of questions from Mr Trevor Lee, former director and employee.</p>		<p>Some general thematic coverage as per Chair's presentation – 'governance' and 'our charter and investments'. However, essentially the board declined to answer these questions at the AGM because it did not regard them as appropriate shareholder questions. The Chair provided answers to Mr Lee in the first half of 2007 – refer to Attachment B of this document.</p>

ATTACHMENT B

CHRONOLOGY OF EVENTS IN REGARDS TREVOR LEE'S STEINER SCHOOL INVESTIGATION ALLEGATIONS/ACTIVITIES

Note:

- CAER is the Centre for Australian Ethical Research – a not for profit body which provides ethical research for AEI;
- George Pooley was independent Chair of AEI from Oct 01 to Oct 06;
- Pauline Vamos was independent Chair of AEI from Oct 06 to Aug 07;
- TL is Trevor Lee;
- None of the Australian Ethical Investment Limited ('AEI') or CAER staff or Directors referred to below have any known Steiner School association.
- IC is AEI's Board Investment Committee.

A. EVENTS PRIOR TO "STEINER SCHOOL REPORT INVESTIGATION SAGA"

1. 1991 TL is appointed a Director of AEI
2. Between 1991-2002 TL works part-time as a consultant for AEI.
3. In July 2002 TL is appointed a part time employee in marketing.
4. During 2003 TL develops a strong personal antipathy towards Steiner Schools.
5. In September 2003 a large parcel of AEI shares held by TL are transferred to his former wife.
6. TL's employment with AEI is terminated by AEI CEO, Anne O'Donnell for non-performance - November 2003

B. EVENTS WHILST TL IS A DIRECTOR OF AEI

1. 21 November 2003 Board Meeting

TL's concern about Steiner Schools being a cult causes IC to request a report as to whether Steiner Schools are an appropriate investment under the Australian Ethical Charter. The report is prepared by the CEO of CAER who has no involvement with Steiner Schools.

The Board meeting considers a 27 page report by CAER and AEI investment staff on Steiner schools. The Board concludes "information available...does not lead to the conclusion that we should have concern about AEI's investment in supporting Steiner education". TL dissents. TL alleges the staff member of CAER who wrote the report has made false claims in the report.

2. Friday 13 February 2004 Board Meeting

The matter was raised again, particularly matters regarding “the method and timing of consultation by CAER”. The AEI CEO checks TL’s allegations of false claims and can find no truth in them.

“The board resolved that this matter had been adequately dealt with”. TL dissents. TL alleges “wilful material misstatements” have been made by the CEO. After this Howard Pender and George Pooley (as Chair) became involved in dealings between TL and the company and devoted a significant amount of time to assessing TL’s claims. But they also could find no substance in them.

3. Wednesday 13 October 2004 Board Meeting

The Board considered the upcoming AGM agenda. TL was standing for re-election at the AGM. “The chair (George Pooley) explained the board had decided not to add a resolution to the agenda for the appointment of Trevor Lee...”.

4. 14 October 2004

TL distributes to AEI Directors an 8 page memo “CAER’s review of loans to Rudolph Steiner schools” criticising CAER’s previous report on Steiner schools and demanding answers to 24 specific questions in regards that report and 8 questions dealing with 2 AEI executive officer’s response to the CAER report.

5. 15 & 19 October 2004

TL has long meetings with Howard Pender (15 October) and with Howard Pender and AEI Independent Chair George Pooley (19 October).

TL says words to the effect:

- He has concerns about his former spouse’s involvement with Steiner Schools;
- It’s important to him - to use his position as a Director and AEI Shareholder and that he needs to continue being a Director to pursue anti-Steiner activities;
- George had not acted both honestly and impartially in this matter.

5. 24 November 2004, AGM

TL was not re-elected at the AGM held on 24 November. TL announces at the meeting his intent to sell AEI shares.

C. EVENTS SINCE 2004 AGM

1. 26 November 2004 Board Meeting

The board dealt with TL’s 14 October questions and agreed to commission an independent review on the activities of Steiner schools.

Another senior staff member is asked about events associated with the Steiner School Report. They are asked by the Board about TL’s allegations of misstatements and false claims. He says “As far as he knew there was no materially dishonest statement in the CAER Report and there was certainly no activity on his part or alone, or with others, to obscure or prevent information getting to the Board”.

The minutes also record “The independent chair (George Pooley) also indicated that he instructed the CEO not to invest time and resources in answering other questions the crux of which had been dealt with by the board at previous board meetings”.

2. 24 June 2005 Board Meeting

A report was prepared in confidence by Dr Chris Aulich, Director, Centre for Research in Public Sector Management, University of Canberra in April 2005 on Steiner schools. Dr Aulich signed a written declaration that “Neither I nor members of my immediate family have any past or current connection with any Steiner School nor do we subscribe to the views embraced by the anthroposophy movement”.

Dr Aulich wrote in regards the Steiner School movement - “Evidence of cult behaviour is weak worldwide – almost non-existent in the Australian context”.

The report was considered by a board meeting held 24 June 2005. The board resolved at item 8.1 “It was agreed that no further board initiated action was required for the Steiner school investments”.

3. Thursday 24 November 2005 AGM

TL nominates Mr Kevin McCready for the position of director. In his statement in support of nomination Mr McCready states that he opposes AEI investment in Steiner Schools. Mr McCready fails to attend the AGM. Motion to appoint him fails on a show of hands. Proxy votes available to be voted against Mr McCready’s appointment were 396, 784. Votes for Mr McCready’s appointment were 21,895. There were 2,350 dissensions.

4. 6 November 2006 AGM

TL raises 6 further written questions about this issue prior to the AGM (similar in content to the 14 October 2004 memo questions). The questions were not dealt with to TL’s satisfaction at the meeting.

After the meeting TL, Howard Pender and new independent Chair Pauline Vamos had a discussion about these questions. TL became vehemently abusive. Pauline undertook to provide Trevor with answers to written questions. Those answers were provided in a letter dated 11 March 2007. In preparing these answers Pauline went to some trouble to carefully look over Board materials dealing with this issue. Her conclusion as set out in her letter was “From what I can see individual directors of the board and staff of AEI went to considerable lengths to impartially investigate the claims made”.

The questions and answers that Pauline provided are set out in the table below.

“ Three years ago, a director of Australian Ethical Investment Ltd alleged to the board in writing that key staff members of AEI and CAER had made material misstatements to the Board of AEI and its committees to materially affect their decisions. He also alleged that in so doing they had breached the Corporations Law.

In setting out those allegations, that director provided a set of questions for the board of AEI to be answered by the three key staff members named in that document. He

further alleged that the answers to those questions would confirm the material misstatements and their effects on the Board's decisions.

	<i>Independent Chair's response</i>
1. When were those questions answered by those key staff members?	I understand that the set of questions referred to were those raised in your memo to directors entitled "CAER's Review of Loans to Rudolf Steiner Schools" dated 14 October 2004. In that memo you posed 24 questions in regard to a 27 page report written by CAER, dated 6 November 2003, in relation to appropriateness of loans to Steiner schools with regard to the Australian Ethical Charter, (CAER Report) and 8 questions in regard AEI's executive response to the CAER report. My understanding is that these issues together with the CAER report were discussed at a board meeting at which you were present in November 2003. I also understand and the Board minutes show that the questions you raised in your 14 October memo were discussed at AEI board meetings in late 2004 and mid 2005.
2. What were the answers given?	My understanding is that the answers given were satisfactory to all board members present. Although I also understand that the answers were verbal.
3. Were there any incompatibilities in those answers?	None that were raised by any directors.
4. Did any of those answers confirm any material misstatement and/or breach of the Corporations Law?	Not as far as I am informed
5. If so, what actions did the Board of AEI take, disciplinary or otherwise, to remedy the situation revealed?	No action was deemed warranted
6. Was any of this reported to ASIC or the ASX? If so, what and when? If not, why not?	Nothing that arose which the board felt warranted reporting to ASIC. Just after the 2004 AGM the company attempted to lodge a statement with the ASX referring to the material you raised at the 2004 AGM. The ASX refused to publish the announcement and required the company to amend it.

5. 14 August 2007

TL writes a 5 page response dissatisfied with Pauline Vamos' conclusions. TL alleges she has been "gulled" by others and so failed to identify the breaches of the Corporation's Act he alleges have occurred.

6. 16 October 2007

TL nominates for the position of director. His nomination is received by the company after the deadline set out in the company's constitution for the receipt of nominations.