

Transport Asset  
Holding Entity  
*of New South Wales*

Board Charter

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## Table of Contents

1. OVERVIEW .....	2
2. POWERS OF THE BOARD .....	2
3. FUNCTIONS OF THE BOARD.....	2
4. ROLE AND RESPONSIBILITY OF THE CHAIR .....	4
5. ROLE AND RESPONSIBILITIES OF THE CEO.....	4
6. CODE OF CONDUCT.....	5
7. CONDUCT OF BOARD MEETINGS .....	6
8. COMMITTEES.....	6
9. BOARD PERFORMANCE .....	6
10. INDEPENDENT ADVICE .....	6
11. ACCESS TO MANAGEMENT AND FACILITIES.....	6
12. ACCESS TO INFORMATION AND RECORDS.....	7
13. DIRECTOR DEVELOPMENT .....	7
14. RESPONSIBILITY TO EMPLOYEES.....	7
15. RESPONSIBILITY TO VOTING SHAREHOLDERS .....	7
16. REGULATORY COMPLIANCE .....	8
17. BOARD COMPOSITION .....	8
18. CORPORATION SECRETARY.....	9
19. REVIEW OF CHARTER .....	9

## 1. OVERVIEW

- 1.1. The Board of Directors (**Board**) of the Transport Asset Holding Entity of New South Wales (the **Corporation**) is committed to conducting the Corporation's business in accordance with high standards of corporate governance.
- 1.2. This Charter builds on the following instruments, which establish the Board's powers, structure, composition, operations, and accountabilities:
  - (a) Transport Administration Act 1998 (as amended by the Transport Administration Amendment (Transport Entities) Act 2017) (**TAA**);
  - (b) State Owned Corporations Act 1989 (**SOC Act**); and
  - (c) Constitution of the Corporation (**Constitution**).
- 1.3. The provisions of the above instruments prevail over any inconsistency with this Charter.

## 2. POWERS OF THE BOARD

- 2.1. Under section 20L of the SOC Act, the Directors acting as a Board are to set the overall policy, strategy and direction of the Corporation. All decisions relating to the operation of the Corporation are to be made by or under the authority of the Board.
- 2.2. The NSW Government may direct the Board in the special circumstances provided for under sections 20N, 20O, 20P and 21(7) of the SOC Act. The Board is to comply with any such direction.
- 2.3. The Board may adopt policies of the NSW Government that otherwise do not apply to the Corporation, provided that such policies are relevant and beneficial to the Corporation.

## 3. FUNCTIONS OF THE BOARD

- 3.1. The Board's role is to govern the Corporation rather than to manage it on a day to day basis. The Board has delegated certain authority to the Chief Executive Officer (**CEO**) under a delegation of authority. The Board must supervise and monitor the CEO (and any other delegates) in the performance of the delegated authority, and may rely on the CEO (and any other delegates) provided there are reasonable grounds for doing so.
- 3.2. The Board has reserved the following matters and is responsible for:
  - (a) overseeing the Corporation's operational and financial performance and compliance with and maintenance of the operating licence(s) granted under section 13 of the TAA;
  - (b) setting the Corporation's strategic direction including adopting objectives, goals, high-level policies and management plans;
  - (c) monitoring management's strategy implementation;

- (d) approving the Statement of Corporate Intent and any corporate plan;
- (e) approving and monitoring major initiatives, significant financial matters (including dividend policy) and, where appropriate, making recommendations to the voting shareholders;
- (f) monitoring the Corporation's major capital expenditure and maintenance of its assets;
- (g) adopting budgets and approving and monitoring financial and other reporting, and reporting to the voting shareholders;
- (h) monitoring the policy, procedures and processes for meeting the Corporation's reporting obligations;
- (i) in accordance with section 7 of the TAA:
  - (i) appointing the CEO, with the approval of the voting shareholders;
  - (ii) fixing the CEO's conditions of employment, with the approval of the voting shareholders;
  - (iii) formulating performance agreements with the CEO;
  - (iv) reviewing the CEO's performance;
- (j) establishing and overseeing Board committees, and attending to the recommendations of those committees;
- (k) approving delegations of authority by the Board to the CEO and management;
- (l) supporting the CEO and ensuring that the CEO and senior executives have access to appropriate resources;
- (m) monitoring the appointment and removal of senior executives directly reporting to the CEO, and reviewing the CEO's assessment of performance of CEO direct reports;
- (n) reviewing and approving systems of risk management, internal compliance and control and corporate governance, to ensure appropriate frameworks, controls, and an appropriate culture of risk management, are in place;
- (o) monitoring the culture of the organisation and setting a 'tone at top' that contributes to a culture of ethics, healthy questioning, continuous improvement, strategic thinking and informed judgement;
- (p) approving any application for accreditation under the National Rail Safety Law;
- (q) approving any matter for submission to the NSW Government's Expenditure Review Committee or Cabinet;
- (r) approving communications and submissions to the voting shareholders;

- (s) consenting to an order proposed to be made under section 94 (1) of the Transport Administration Act 1988;
- (t) approving the appointment or removal of the corporation secretary; and
- (u) any other matter advised to the CEO from time to time.

#### **4. ROLE AND RESPONSIBILITY OF THE CHAIR**

4.1. The Chair presides over the Board meetings.

4.2. The Chair has an important role in:

- (a) leading the Board and facilitating, encouraging and providing constructive discussion and debate during Board meetings and effective use of the time available to adequately address Board business; and
- (b) ensuring the Board is well informed and effective, that the members, individually and as a group have the opportunity to air differences, explore ideas and generate the collective views and wisdom necessary for the proper operation of the Board and the Corporation.

4.3. Specific roles of the Chair include (and are not limited to):

- (a) Guiding the Board's leadership and strategic vision for the Corporation to achieve the objectives established for it from time to time;
- (b) Developing and maintaining an effective working relationship with, and facilitating an effective dialogue with the CEO about strategic matters and other issues that may be of interest to the Board or voting shareholders;
- (c) Liaising with the voting shareholders, and where appropriate the portfolio Minister, and their advisers, departments and other stakeholders on issues of a strategic or sensitive nature. The Chair will normally advise the CEO about all significant communications with Government Ministers and/or their advisers or departmental officers, or other stakeholders;
- (d) Promoting constructive and respectful relations between Directors and between the Board and senior management;
- (e) Where appropriate, acting as a spokesperson for the Corporation. The Chair will normally direct media or public enquiries to the CEO or consult with the CEO before speaking to the media or otherwise speaking publicly on behalf of the Corporation or in relation to its business; and
- (f) Leading and guiding the ongoing effectiveness and development of the Board and individual Directors.

#### **5. ROLE AND RESPONSIBILITIES OF THE CEO**

5.1. The CEO is responsible to the Board for the day-to-day management of the

Corporation. The Board delegates to the CEO by formal written instrument full authority for the management of the Corporation, and reserves to itself all other authority not expressly delegated. The CEO must:

- (a) manage the Corporation in accordance with the Board's instrument of delegation to the CEO, strategy, plans, practices and policies approved by the Board to achieve the agreed objectives; and
- (b) advise, and where appropriate consult with, the Chair on matters that are sensitive, extraordinary or of a strategic nature.

5.2. In addition, the CEO's responsibilities include (and are not limited to):

- (a) Providing leadership to the Corporation's employees and contracted personnel (**contractors**) and in respect of its stakeholders and the public generally, including fostering of a culture that is supportive of the Corporation's overall objectives;
- (b) Acting as the Corporation's principal spokesperson to the media and stakeholders. The CEO will inform the Chair promptly of sensitive or otherwise significant interaction that he or she may have with the media, public or other stakeholders;
- (c) Ensuring to the greatest extent possible that the ethical standards established by the Board are valued and practised by the Corporation's employees and contractors;
- (d) Ensuring that the authorities delegated by the Board are exercised in a competent manner and within the intent and limits of such delegation, and referring all matters outside of his or her delegation to the Board for approval;
- (e) Ensuring the Board is provided with sufficient and timely information to enable it to act effectively;
- (f) Keeping the Chair apprised of all matters of significance that occur between Board meetings;
- (g) Managing the Corporation so as to achieve agreed performance targets;
- (h) Ensuring the Corporation's risk management and internal control frameworks are fully and effectively developed, implemented and managed;
- (i) Recommending policies of a strategic nature to the Board, adopting and implementing operational policies appropriate for the Corporation's business, and ensuring the Corporation's policies are complied with; and
- (j) Discharging responsibilities determined by the Board from time to time.

## **6. CODE OF CONDUCT**

6.1. The Board's Code of Conduct shall be followed by all Directors.

## **7. CONDUCT OF BOARD MEETINGS**

- 7.1. The Constitution sets out the way the Board is to conduct business.
- 7.2. The agenda and papers for each meeting of the Board will be distributed by the corporation secretary to all Directors at least one (1) week prior to the meeting, except in exceptional circumstances. Minutes of Board meetings will be prepared and circulated to the Chair for approval within one (1) month of the meeting, except in exceptional circumstances.

## **8. COMMITTEES**

- 8.1. The Board may establish committees under clause 5.12 of the Constitution.
- 8.2. Each committee is to have a charter, approved by the Board, and membership determined by the Chair of the Board.
- 8.3. The Board is to review its committee structure (including the role, function, charter, and membership), at least every two years.

## **9. BOARD PERFORMANCE**

- 9.1. The Directors will participate in an annual review of the Board's performance and effectiveness, including the performance of its committees. The Chair will implement a review system which, subject to consultation with the Board, shall include (and is not limited to):
  - (a) a collective review of Board effectiveness;
  - (b) individual performance reviews for Directors;
  - (c) opportunities for Directors to give private feedback to the Chair on Board effectiveness; and
  - (d) any other review mechanisms as the Chair decides.
- 9.2. An external facilitator may be engaged to assist with an independent Board performance review every third year (or more frequently as determined).

## **10. INDEPENDENT ADVICE**

- 10.1. At the discretion of the Chair, a Director may obtain independent professional advice at the expense of the Corporation if such advice is considered necessary for the Director to effectively discharge their duties as a Director.

## **11. ACCESS TO MANAGEMENT AND FACILITIES**

- 11.1. A Director may request access to appropriate Corporation managers or to inspect any Corporation asset or facility via the CEO or the corporation secretary. Such a request

may arise when there is a need for a detailed briefing or assistance to understand a technical issue and will not be unreasonably denied.

## **12. ACCESS TO INFORMATION AND RECORDS**

12.1. Each Director is entitled to have free and full access to all the books and records of the Corporation (including but not limited to, minutes, papers, agendas, tabled documents, and presentations) for the purposes of discharging their duties as a Director. The Constitution provides former Directors with certain rights to access the books and records of the Corporation for the purposes of legal proceedings.

## **13. DIRECTOR DEVELOPMENT**

13.1. At the discretion of the Chair, the Corporation may contribute to the cost of education or training which is relevant to the expertise for which an individual Director was appointed to the Board or which is otherwise specifically relevant to their Directorship.

13.2. All new Directors appointed to the Board are to undertake an induction program coordinated by the corporation secretary, to assist them in fulfilling their duties and responsibilities.

## **14. RESPONSIBILITY TO EMPLOYEES**

14.1. The Board values the know-how, enthusiasm and efforts of the Corporation's employees and contractors. The Board's responsibilities to the Corporation's employees and contractors include (and are not limited to):

- (a) exhibiting and encouraging the Corporation's desired culture and behaviours described in the Board Code of Conduct;
- (b) monitoring compliance with all legal requirements regarding the terms of employment and engagement; and
- (c) giving due consideration to workplace health and safety as a key priority.

## **15. RESPONSIBILITY TO VOTING SHAREHOLDERS**

15.1. The Board is accountable to the voting shareholders under the provisions of the SOC Act and the Constitution. The Board's responsibilities to the voting shareholders include:

- (a) seeking the approval of the voting shareholders in respect of:
  - (i) the Board's appointment of the Chief Executive Officer under section 7(1) of the TAA;
  - (ii) the Board's determination of the Chief Executive Officer's remuneration under section 7(4) of the TAA; and
  - (iii) the Board's fixing of the Chief Executive Officer's conditions of employment

under section 7(5) of the TAA;

- (b) consulting in good faith with the voting shareholders for the yearly preparation of the Statement of Corporate Intent, under section 21 of the SOC Act;
- (c) seeking the prior written approval of the voting shareholders, under section 20W of the SOC Act, for the Corporation's acquisition or disposal of any interest in a private corporation or subsidiary;
- (d) seeking the prior written approval of the voting shareholders, under section 20X of the SOC Act, for the Corporation's acquisition or disposal of prescribed interests in assets or investments;
- (e) seeking the prior written approval of the voting shareholders, under section 20Y of the SOC Act, for the disposal of the main undertakings, as prescribed, of the Corporation;
- (f) reporting to the voting shareholders on the operations of the Corporation;
- (g) preparing annual accounts and an annual report of operations for the Corporation;
- (h) governing the Corporation responsibly to protect and enhance shareholder value for the benefit of the State of New South Wales;
- (i) informing the voting shareholders of any matters which have or are likely to have a significant impact on the operations or financial position of the Corporation; and
- (j) dealing with NSW Treasury, as the voting shareholders' representative, including:
  - (i) the timely provision of relevant and accurate information on matters likely to affect the operations or financial position of the Corporation; and
  - (ii) the provision of other information reasonably requested by NSW Treasury.

## **16. REGULATORY COMPLIANCE**

16.1. The Board is to monitor the Corporation's regulatory compliance, including compliance with the terms of any operating licence granted under section 13 of the TAA.

## **17. BOARD COMPOSITION**

17.1. Under section 6 of the TAA, the Board may consist of no fewer than three and up to seven Directors (including the Chair) appointed by the voting shareholders, and the Transport Secretary. The CEO may be one of the Directors appointed by the voting shareholders.

17.2. The Board will include Directors who will, in the opinion of the voting shareholders, assist the Corporation achieve its principal objectives.

17.3. The roles of Chair and CEO are to be separate.

## **18. CORPORATION SECRETARY**

18.1. The corporation secretary supports the effectiveness of the Board and its Committees.

The secretarial function supports the Board by providing:

- (a) access to information in appropriate form, currency and quality, including the procedures to cover additional requests of management; and
- (b) access to independent professional advice, where requested.

18.2. The corporation secretary's responsibilities include:

- (a) advising the Board and its Committees on governance matters and meeting statutory reporting requirements in accordance with relevant legislation;
- (b) monitoring that Board and Committee policy and procedures are followed;
- (c) coordinating the timely completion and dispatch of Board and Board committee agendas, briefing papers and minutes of proceedings;
- (d) ensuring that the business at Board and Committee meetings is accurately captured in the minutes; and
- (e) organising and facilitating the induction and professional development of Directors.

18.3. Each Director shall have direct access to the corporation secretary and vice versa.

## **19. REVIEW OF CHARTER**

19.1. This Charter is to be reviewed annually to ensure that it remains consistent with the Board's objectives and responsibilities, and relevant standards of corporate governance.

19.2. Any modifications to, or replacement of, this Charter must be approved by the Board.