



## BOARD CHARTER

### Scope

The Board's duties, functions, roles and responsibilities are governed by Corporations Law, *Water & Sewerage Corporations Act 2008* (WSCA), the Corporation's Constitution, and common law as relevant.

The Board Charter represents the Board's policy in areas in which it has discretion.

### 1. Role of the Board

Under WSCA, the Board of the Corporation:

- governs in accordance with the requirements of the WSCA and the Constitution to meet the objectives of the Corporation under the WSCA;
- provides entrepreneurial leadership of the Corporation within a framework of prudent and effective controls which enable risks to be assessed and managed;
- sets the Corporation's strategic aims, ensures that the necessary financial and human resources are in place for it to meet its objectives and reviews management performance;
- sets and monitors strategic requirements for effective financial reporting and risk management;
- sets the Corporation's values and standards and ensures that its obligations to its shareholders and others are understood and met; and
- appoints and removes the CEO and Corporate Secretary.

Subject to Corporations Law, WSCA and the Constitution, the Board may delegate its powers. A Delegations Manual has been approved for the Corporation which details those matters specifically reserved to the Board and those powers delegated to management.

Matters Reserved to the Board are published on the Corporation's website for public access.

## **2. Board Structure**

Under the WSCA, the Board comprises six directors. Of these, four directors are common to all three Tasmanian Water & Sewerage Regional Corporations.

The Chair of the Corporation is also Chair of all other Tasmanian Water & Sewerage Corporations.

## **3. Role of Individual Directors**

The Board recognises that executive and non-executive directors have the same general legal duties and responsibilities to the Corporation and that the Board as a whole is collectively responsible for promoting the success of the Corporation by directing and supervising its affairs.

Directors have fiduciary and other duties under common law. Many of these are also enshrined as statutory duties under WSCA (Schedule 2) and/or Corporations Law. These are owed by each director individually and are summarised as the duties to:

- act in good faith in the interests of the Corporation as a whole;
- exercise powers for proper purpose;
- exercise care, skill and diligence;
- avoid conflicts of interests;
- not misuse the position of director and/or the information gained for personal benefit or to the detriment of the Corporation; and
- retain discretionary powers.

The WSCA (Schedule 2, Section 7) recognises that directors (and some officers, employees or secretary/ies) who are appointed to more than one Tasmanian Water and Sewerage Corporation may find themselves with inherent conflicts of interests in their duties, particularly where issues common to more than one Corporation are being considered.

To assist those in this situation, the WSCA makes express provision for the duties above to be satisfied under WSCA, common law and in equity if those duties are executed or powers are exercised for the benefit of any one of the Tasmanian Water and Sewerage Corporations. (*Refer to WSCA for full details and limitations*).

Directors' duties continue to exist after the directorship ceases.

Subject to Section 7 of Schedule 2 of WSCA, directors can be personally liable for breaches of their collective and individual duties.

#### **4. Role of the Chairman**

The Board of the Corporation is collectively responsible for promoting the success of the Corporation by directing and supervising its affairs.

As a director, the Chairman holds the same role and responsibilities as other directors. However, when the Corporation has an Executive Chairman, the role will also include to:

- oversee the timely establishment of the business and corporate governance of each of the Corporations, including through appropriate involvement in director and CEO appointment processes;
- manage the transitional issues associated with establishing each of the Corporations, particularly with respect to communications with potential future employees;
- guide start-up resource planning for each of the Corporations in order that they can appropriately fulfil their responsibilities;
- manage media relations, marketing and brand development issues for each of the Corporations; and
- take the lead role in managing stakeholder issues and engagement.

#### **5. Directors' Interests**

It is accepted and acknowledged that directors have business interests other than those of the Corporation but all directors are required to declare any conflicts that actually exist or could be perceived to exist.

Disclosure of interests is a continuing obligation. The Corporate Secretary maintains a register of standing declarations on behalf of all directors and further disclosure is invited at every Board and Committee meeting. The content of the register will be disclosed in the Annual Report, in accordance with accepted corporate governance principles, or to any authorised party requesting the information.

The register of directors' interests must be updated to reflect current interests as they arise and the register will be presented to a Board meeting at least once a year.

In the event that a director becomes aware of any new or potential conflict of interest, it must be disclosed to the Chairman as soon as practicable but certainly before relevant papers are received or a discussion occurs at a meeting in which the conflict is realised.

To ensure transparency and the validity of the declared interests, the Corporate Secretary will provide the register of interests to new directors on appointment. Similarly, interests declared by a new director will be disclosed to current directors.

## **6. Effective decision making**

Directors recognise that they each have a positive duty to act honestly, ethically and satisfy their statutory, fiduciary and other duties when making decisions.

Individual directors and the Board collectively will:

- heed their statutory, fiduciary and other duties;
- follow Corporation policies;
- ensure sufficient information of suitable scope, depth, accuracy and completeness is available to them;
- make reasonable enquiries of management but avoid relying unduly on management if the circumstances require it;
- seek competent and independent advice for the given issue if necessary;
- ensure advisors are not 'captured' by or beholden to management.

## **7. Role of the Corporate Secretary**

The Corporation has elected to appoint a Corporate Secretary as permitted under WSCA. As an officer of the Corporation, the Corporate Secretary is charged with ensuring the Corporation complies with Corporations Law and facilitating its corporate governance processes.

The Corporate Secretary is the Corporation's 'chief administrative officer' but the specific tasks include:

- overseeing the Board's compliance with WSCA and Corporations Law and related legislative obligations;
- ensuring that the agenda and Board papers are prepared and forwarded to directors within a reasonable period before each Board meeting;
- preparing for and attending directors' and general meetings of the Corporation;
- recording, maintaining and distributing the minutes of directors' and general meetings of the Corporation;
- complying with meeting procedures, circulating resolutions and any other practices involving Corporations Law and WSCA;
- maintaining statutory registers;
- attending to ASIC lodgements;
- maintaining the Board's register of delegations to CEOs and other officers; and
- supporting the Directors' Selection Panel and the statewide Owners' Representative Group.

The Corporate Secretary has statutory and fiduciary duties as an officer of the Corporation and therefore, is personally liable for breaches of those duties.

## **8. The role of the CEO**

The CEO is responsible to the Board for the general administration, day to day operations and management of the Corporation in accordance with the Board's requirements and the approved Delegations Manual.

Accordingly, the role of the CEO will comprise, at least, the following:

- advising the Board, on a regular basis, about the operational and financial performance of the Corporation;
- immediately advising the Board of any material matter likely to seriously impact on the Corporation;
- ensuring a dynamic and consultative interaction with the Board in setting the vision, objectives and corporate strategies of the Corporation; and
- conducting day to day business in accordance with WSCA, the Constitution, other relevant legislation and policies set by the Board;

## **9. Board Meetings**

The Corporation's Constitution details the processes for conducting Board meetings. It stipulates a minimum of six meetings per year.

As required under its Constitution, a quorum for Board meetings is three directors – one of whom must be the Chairman. If the Chairman is excused as an interested director or due to a conflict of interest, a quorum will be two directors – one of whom is a Regional Director.

To ensure valid decisions, a quorum must be present at the time the business is dealt with.

The CEO attends Board meetings by standing invitation. The Board may request other Corporation officers attend its meetings. However, the Board also has the right to meet without the CEO (or management) present at its discretion.

The Chairman presides at each Board meeting and the Constitution details processes in the event the Chairman is not present.

The Chairman will determine the degree of formality required at each meeting while maintaining appropriate decorum. However, as good meeting protocol, the Chairman will:

- ensure that all members are heard;
- retain sufficient control to ensure that the authority of the Chairman is recognised; and
- take care that decisions and debate are completed with a formal resolution recording the conclusions reached.

## **10. Information Technology**

### *Form of meetings*

All directors agree that Board and Committee meetings may be held with all directors present in the one location; linked together through technology; or a combination of both, as provided in the Constitution.

### *Electronic access to papers*

Board and Committee papers, and other useful papers, will be provided electronically. Therefore, directors are encouraged to return hard copy papers to the Secretariat for secure disposal after each meeting.

### *Board Portal software*

The Secretariat administers the Board Portal software. The aim of this software is to ensure that relevant information can be provided to directors in a timely manner, but also retained in a secure location for long term, electronic access.

Directors recognise their obligations to protect the confidentiality of information stored in the Portal. In accordance with the signed Confidentiality Agreement relating to the Portal, Directors acknowledge the need to restrict access via their personal or business computer(s) and avoid any security breaches via any publicly accessible computer.

The Portal may also be used to reduce the need for distribution of hard copy papers and increase the efficiency of Board and Committee meetings through electronic capability.

## **11. Board Papers**

The Chairman together with the Corporate Secretary is responsible for the preparation and circulation of Board papers. All Board papers must be circulated to directors to arrive in a reasonable time before meetings.

At a minimum, Board papers must contain:

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- agenda;
- minutes of previous meeting;
- CEO report;
- Committee reports (where appropriate) in accordance with their respective charters; and
- any Board submissions requiring decisions.

Where a pressing issue arises with no opportunity to present a paper to the Board, the Chairman has the right to introduce the matter in the meeting. The Board has the right to determine how it responds to the matter.

Related Party Transactions will be reported to the Board six monthly via the CFO's Delegations Report. However, if a material transaction arises in the interim, the CFO will report such a transaction in the following month's Report.

## **12. Board Minutes**

All decisions will be recorded in the minutes by means of formal resolution. The minutes will contain a brief reference to relevant Board papers tabled plus the official resolution adopted by directors. Directors who dissent are entitled to ask to have their decision noted in the minutes.

Each paper tabled with the Board will include a draft resolution recommended by the author. Where a recommended draft resolution is not adopted, a brief summary of the reasons for the alternative course of action will be noted in the minutes.

The Corporate Secretary will ensure minutes are prepared in draft form and provided to the Chairman for review within reasonable time. Once the Chairman has approved the draft minutes for distribution, the corporate secretary will circulate to directors.

Once the minutes have been adopted by the Board they cannot be amended unless the Corporations Act requirements are followed.

## **13. Board Calendar**

The Corporate Secretary will prepare an annual Board and Committee calendar that includes major Board and Committee activities to be carried out over the year. The calendar will be updated after each meeting.

## **14. Board Committees**

Each Committee established by the Board will have its own charter to govern its responsibilities, reporting obligations and the extent of its delegated authority.

### **15. Monitoring**

A fundamental function of the Board is to monitor the Corporation's performance and compliance. The Board recognises that performance and compliance standards are specified in applicable legislation and regulation and the Shareholders Letter of Expectation.

With this general principle in mind, the Board commits to monitoring both financial and non-financial Key Performance Indicators (KPIs) and to proactively advise its shareholder representatives of any adverse performance that may arise in a timely manner, rather than wait for routine reporting obligations.

The Board commits to taking appropriate corrective action to address performance trends that are not meeting required standards.

### **16. Compliance**

The Board is committed to meeting its obligations to legislative and regulatory compliance and maintaining the highest ethical standards.

The Board endorses the Corporation's legal compliance framework and will actively monitor performance with the requirements of the framework.

### **17. Risk Management**

The Board is committed to ensuring the Corporation effectively manages its business, legal, financial, regulatory, operational and ethical risks.

The Board's Audit and Risk Committee is charged with overseeing risk on behalf of the Board.

Each Committee's Charter specifies how these responsibilities are to be discharged.

### **18. CEO Evaluation**

The Board manages the CEO's performance.

Formal processes are established and include an opportunity for directors to discuss the CEO's performance quarterly.

## **19. Directors' Rights**

As a general rule, a director has two key rights - the right to information and the right to be insured against specific risks of being a director, subject to limitations in the WSCA. Therefore, as a matter of policy, the following measures to protect directors and the collective Board will apply.

### *Information-seeking protocol*

The following protocol applies for directors when seeking information from the Corporation:

- approach the CEO to request the required information (with a copy to the Chairman);
- approach the Chairman if the information is not forthcoming;
- if the information is still not forthcoming, write a letter to all the Corporation's directors and the CEO detailing the information required, including the purpose of the information and how the director intends to resolve the matter; and
- as a last resort, employ the provisions of the Corporations Act.

### *Access to Board papers*

The Corporate Secretary holds a complete set of Board papers on behalf of each director at least for the statutory period of seven years. The official registers of Board papers and minutes are stored in the Corporation's electronic document management system, not the Board Portal software.

Directors are entitled to access papers for the period they were a director on request, even if they have ceased to be a director.

### *Independent advice*

The Board as a whole, and individual directors, have the right to access competent, independent advice regarding Corporation matters, at the Corporation's expense. It is the Board's responsibility to ensure that it is reasonable to rely on the advice received and that the advisor is competent and appropriately independent from management or other interested parties.

Advice requested by an individual director will be provided to all the Corporation's directors.

If requests for advice are not made during a Board or Committee meeting, they should be channelled through the Corporate Secretary.

### *Insurance*

The Corporation will maintain Directors & Officers Insurance each year for current directors and for seven years from the date at which a director ceased to hold that position. The Corporation will provide each director with information regarding the insurance policy each year.

## **20. Board Evaluation**

Evaluations of the Board and each director will be conducted annually. The Board will determine the most appropriate method of assessment each year which may include external review from time to time.

The Chairman is responsible for overseeing the process.

The Board commits to implementing any improvements emanating from the review.

## **21. Director Development**

In order to continually improve Board performance, all directors are encouraged to participate in professional development. Directors will be offered resources and training to address any specific skills gaps identified.

Directors are also encouraged to undertake self-development where appropriate.

The Corporation maintains a budget for reasonable director development activities and directors who wish to undertake a development activity, at the Corporation's expense, should discuss this with the Chairman.

## **22. Directors' Remuneration**

Under WSCA, the Regional Corporations' Owners Representative Groups (ORGs) are responsible for determining the remuneration of the Chairman and other non-executive directors for all Tasmanian Water and Sewerage Corporations. The ORGs makes their determination based on the recommendation of the Selection Panel.

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Director's remuneration for the three directors of Onstream who are CEOs of the Regional Corporations forms part of each CEO's salary as required under the WSCA. Additional remuneration for being a director is not paid.

### **23. Directors' Expenses**

Reasonable expenses incurred by directors in the course of Corporation business will be reimbursed in accordance with the current version of the Directors' Travel and Expense Reimbursement Policy.

### **24. Director Selection and Induction**

The WSCA governs the selection of directors. Induction is the responsibility of the Chairman and Corporate Secretary, with assistance from the CEO and Executive Team.

### **25. Publication of the Charter**

The Board's Charter will be published on the Corporation's website.

### **26. Review of Charter**

The Board will review this Charter at least three yearly, at a time that coincides with evaluation of the Board's performance and the review of other governance practices to ensure that it meets best practice standards and the needs of the Corporation, its owners and the Board.

*Approved by the Board on 4 February 2010.*



*Chairman*

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