

# Charter

## Board of Landcom

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# Board Charter

This Charter sets out matters relating to the Board of Landcom's governance and operation.

## Introduction

The principal functions and objectives of the Board of Landcom (the **Board**), including its composition, authority and accountability, and Directors' responsibilities are set out in:

- the Landcom Corporation Act (the **Landcom Act**);
- the State Owned Corporations Act (the **SOC Act**); and
- the Constitution of Landcom (the **Constitution**).

## Role of the Board

The Board has absolute responsibility for the performance and commercial success of Landcom and ensuring that it is managed in the best interests of the Shareholder Ministers.

## Powers of the Board

All decisions relating to the operation of Landcom must be made by or under the authority of the Board, under the SOC Act<sup>1</sup> and the Constitution. The Board has delegated responsibility for day to day management to the Chief Executive Officer (**CEO**) subject to the limits of authority set out in the Delegations Manual, and in accordance with the general policies and specific directions of the Board and Board Committees.

The Board has clear responsibilities and has reserved certain significant matters for decision to itself as set out in this Charter. Any matters outside Board approved delegations given to CEO and management, must be referred to the Board or appropriate Committee for approval. Delegations of authority are recorded in Board and Board Committee minutes, approved delegation documents and/or in the Delegations Manual.

The Landcom Act limits the authority of the Board in relation to certain significant acquisitions and disposals. Written approval must be provided by the Shareholder Ministers before acquiring or disposing of real property with a value above \$30 million or disposing of a main undertaking of Landcom.

## Responsibilities of the Board

The Board's responsibilities are to:

- 1 Set the tone for Landcom's culture including the critical importance of health, safety and an appropriate risk culture;
- 2 Provide leadership and set major corporate goals and provide strategic direction;

<sup>1</sup> S.20L SOC Act

- 3 Provide input into, review and approve the Statement of Corporate Intent (**SCI**) and other major plans and ensure performance objectives are included;
- 4 Oversee management's implementation of the SCI and other major plans, and monitor operational and financial performance objectives generally;
- 5 Monitor the implementation of approved strategies, guidance and directions from the Shareholder Ministers and the Portfolio Minister;
- 6 Approve and review the progress of major capital expenditure, capital management, acquisitions and disposals and other significant financial matters outside the express authorities delegated to the CEO and, as applicable, make recommendations to the Shareholder Ministers;
- 7 Approve and monitor the integrity of financial and other reporting, including the annual and half yearly financial statements;
- 8 Determine the organisation's risk appetite within which the Board expects all staff to operate and review the effectiveness of the risk management framework and internal control systems in relation to material business risks and regulatory compliance;
- 9 Review the policy, procedures and processes for meeting Landcom's obligations for continuous, proactive and timely disclosure to Shareholder Ministers and Portfolio Minister of material information related to the commercial performance of Landcom and on matters which may raise community concerns<sup>2</sup>, including provision of information generally under the Reporting and Monitoring Policy for Government Businesses;
- 10 Establish and oversee Board Committees and have regard to the recommendations of those Committees as appropriate;
- 11 Approve, and review as needed, delegations of authority to Board Committees, CEO and management generally;
- 12 Ensure compliance with relevant government policies;
- 13 Monitor the effectiveness of the Landcom's governance practices;
- 14 Support the CEO and ensure that the CEO and senior executives have access to appropriate resources to implement approved strategy, SCI, major plans and any Ministerial Directions;
- 15 Make recommendations to the Shareholder Ministers in relation to the appointment, terms of employment and remuneration of the CEO and review the CEO's performance including against approved objectives; and
- 16 The CEO will consult with the Board prior to the appointment of member of the Executive Committee, their remuneration framework, succession planning for these roles.

## Responsibilities to stakeholders

The Board's primary accountability is to the Shareholder Ministers and the Portfolio Minister in accordance with its responsibilities under the Landcom Act, the SOC Act and the Constitution. The Board also has responsibilities to other key stakeholders including employees, the community, NSW Treasury who act as the representative of the Shareholder Ministers, and regulators.

<sup>2</sup> TPP17-10 Guide 1 Principle 5, p.15

## Directors' duties

Directors must comply with their duties under the SOC Act, the Constitution and at law. These include to:

- act in the best interests of Landcom;
- exercise powers for a proper purpose;
- act honestly and in good faith;
- act with skill, care and diligence;
- not use information or their position improperly;
- avoid conflicts of interest;
- not make false or misleading statements;
- prevent insolvent trading; and
- retain discretion and keep sensitive information confidential.

Directors have additional responsibilities under specific laws, such as in relation to work health and safety matters.

Directors must comply with the Landcom's Code of Conduct, which sets requirements in relation to matters including:

- acting honestly and with integrity;
- managing, disclosing and avoiding conflicts of interest;
- not disclosing or misusing inside information; and
- upholding good corporate citizenship.

## Expectations of Directors

Directors are expected to devote the necessary time and attention to carry out their responsibilities.

In discharging their duties, Directors are expected to apply the following principles:

- exercise independent thinking and judgement;
- analyse all Board reporting and proposals diligently;
- be forthright, inquisitive and make reasonable inquiries about Landcom's operations;
- demonstrate commercial reasonableness;
- give of their specific expertise generously; and
- not engage in conduct that may discredit Landcom.

## Director appointment

Directors are appointed by the Governor on the recommendation of the Shareholder Ministers after they have consulted with the Portfolio Minister. The Directors are to be people who, in the opinion of the Shareholder Ministers and the Portfolio Minister, will assist Landcom to achieve its principal objectives.

The Board provides advice to the Shareholder Ministers, who then in turn consult with the Portfolio Minister, on changes to its composition and the appointment of new Directors. The CEO may be appointed as a Director.

Directors are generally appointed for a term of three years and may be reappointed for two consecutive terms, as determined by the Shareholder Ministers in consultation with the Portfolio Minister<sup>3</sup>.

## Board composition

The Board may consist of up to seven Directors with a majority of Directors being independent. Each Director may sit on no more than two other government boards<sup>4</sup>.

The Board should have a range of skills, experience, perspectives and diversity for it to properly understand and competently address significant current and emerging issues for Landcom and meet its statutory objectives. This includes Directors with experience in the following areas:

- property development;
- design, planning and project management;
- affordable or community housing;
- government or public sector; and
- finance.

The Board should review its composition, structure and operation regularly to ensure they are appropriate for the evolving needs of Landcom. This should include considering the ongoing appropriateness of the current composition and size of the Board and its impact on Directors' workloads and formulate the most suitable composition of the Board and make recommendations to Shareholder Ministers to enable appropriate governance of Landcom.

## Director independence and conflicts of interest

Directors are independent if they are free from any relationships or circumstances that could materially interfere with, or be perceived to materially interfere with, the independent exercise of their judgement. Director independence is assessed with regard to the Guidelines for Boards of Government Businesses that form part of the NSW Treasury Commercial Policy Framework.

Directors must disclose any actual or potential conflicts of interest and have seven days to remove the conflict if asked to by the Board. If it is not possible to resolve the conflict, the Director involved must not receive Board reports on the matter, must leave the room during any deliberation or voting, and their entry and exit must be recorded in the minutes.

Where a conflict significantly effects a Director's ability to take part in the majority of the Board's deliberation that Director should resign from the Board.

However, the Board may determine and resolve that it is satisfied that the interest does not disqualify the Director involved, who may then receive Board reports on the matter and take part in deliberation

<sup>3</sup> TPP17-10 Guide 1 Principle 2, p.10

<sup>4</sup> TPP17-10 Guide 1 Principle 2, p.11

and voting. In this case, the conflict involved and the reasons for the decision not to exclude the Director must be recorded in the minutes.

Directors should consult with the Chair before accepting a new external role or appointment to consider whether an actual or potential conflict of interest may arise. Directors should notify the Chair and the Company Secretary of any changes to their interests. The Company Secretary will maintain a full register of Directors' interests and provide a summary of this for each scheduled Board meeting.

## Induction and training

Newly appointed Directors are to receive appropriate induction to familiarise them with the Landcom business and its industry. A Board approved induction program is to facilitate allowing new Directors to contribute to decision-making at the earliest opportunity. Any program will focus on providing new Directors with a timely understanding of:

- Landcom's financial, strategic, operational and risk management frameworks, plans and policies;
- rights, duties and responsibilities of directors and senior executives;
- roles and responsibilities of senior executives, and
- role of board committees.

All Directors are encouraged to participate in relevant continuing professional development during their tenure to maintain their effectiveness as leaders. Landcom will seek to address any identified skills gaps by providing resources or training, but Directors should also pursue appropriate self-development opportunities.

## Independent advice

The Board may obtain independent professional advice as to any matters pertaining to the responsibilities of the Board.

Individual Directors may obtain independent advice to assist them in discharging their duties subject to obtaining prior written approval from the Chair. For the Chair to obtain independent advice, prior written approval must be obtained from the Chair of the Audit & Risk Management Committee.

Expenses incurred to obtain this advice are the responsibility of Landcom.

## Access to management and information

The Board will approve and publish protocols from time to time to facilitate Directors having appropriate access to senior management and to any information of Landcom, as required, to carry out their duties. Board approved protocols will have regard to balancing:

- the legitimate needs of directors in the performance of their duties and responsibilities;
- the need for management to have clarity on requirements and expectations, and
- practicalities on timeliness, priorities and scope

Protocols will include provision for

- Direct personal access to senior management so that they are available to be contacted between Board meetings by prior arrangement, and
- The Secretary to be copied on all electronic communications between Directors and senior management, subject to confidentiality, to permit an integrated approach and understanding of director information requests and flow.

## Director Remuneration

The Shareholder Ministers, in consultation with the Public Sector Commission under the *Classification and Remuneration Framework for NSW Government Boards and Committees*, determine the remuneration that Directors receive for their work as members of the Board.

## Performance evaluation

The Board will evaluate its own performance annually to consider the extent to which it has met its responsibilities under this Charter and to identify opportunities for continual improvement. The review may also encompass the performance of the Board's committees and of individual Directors.

The Board will approve a process for the review, which may include its scope, performance measures (qualitative or quantitative) and will engage an independent consultant to conduct the review each alternate year. The outcomes of the review will be considered by the Board.

## Role of the Chair

The Chair is the Board's lead director, who brings experience, skills and leadership to facilitate effective governance. The Chair must be an independent Director and must not act as Landcom's CEO.

The key responsibilities of the Chair are to:

- help the Board develop constructive relationships with the Shareholding Ministers, the Portfolio Minister, the CEO and senior management and other key stakeholders;
- oversee the Board's discharge of its role and responsibilities;
- help the Board and Directors understand their role, responsibilities and accountability;
- facilitate the effective contribution of all Directors, including promoting good working relationships between Directors;
- facilitate the flow of information to members and stakeholders;
- oversee effective board, board committee and director evaluation processes as needed;
- establish the agenda for Board meetings in conjunction with the CEO and the Company Secretary;
- preside over Board meetings and lead the Board's deliberations, including managing available time to address the matters for consideration;
- be the major point of contact between the Board and the CEO and keep informed of significant current events between Board meetings;
- ensure appropriate secretariat support is provided;



- provide where required or requested, input into the nomination, selection and recruitment process for directors, and
- act as a sounding board and mentor to the CEO.

The Board may elect a Deputy Chair to take on the Chair's role if the Chair is absent.

## Role of the CEO

The CEO of Landcom is responsible for the day to day management and leadership of Landcom its people, business and operations in accordance with the specific directions of the board, general policies, and relevant Board delegations, including those set out in the Delegation of Authorities Manual.

## Role of the Secretary

The Company Secretary is responsible for the corporate governance arrangements of Landcom and the effective administration of the Board's affairs.

The key responsibilities of the Company Secretary are to:

- work with the Chair and CEO to manage the preparation of agendas and reporting for Board and committee meetings and their timely dispatch to Directors;
- attend Board and Committee meetings and prepare minutes;
- facilitate the effective exchange of information between the Board, committees and senior executives;
- regularly review the Board's policies and procedures to ensure they continue to be appropriate and deliver the desired outcomes;
- organise meeting facilities and other meeting logistics; and
- provide proactive advice on matters including Directors' duties, corporate governance, policy and procedures and compliance or as otherwise requested by the Chair, the Board, committees or the CEO from time to time.

All Directors have direct access to the Secretary.

The Secretary is accountable to the Board and the appointment or removal of a Secretary is a matter for the Board.

## Board meetings

The Board may meet as often as the Directors consider it necessary for the Board to discharge its duties and responsibilities. Meetings may be attended in person, by phone or video conference.

The Board may address matters that require a decision between meetings by circular resolution as it sees fit.

A quorum for each Board meeting is a majority of Directors each of whom is entitled to vote on an item of business.

Where Directors do not reach a decision by consensus, individual Directors may request that their dissent or abstention is recorded in the minutes.

The CEO and the Secretary may attend each Board meeting by standing invitation, unless otherwise requested by the Chair, but will have no voting rights (unless the CEO is also a Director) and may be asked to leave at any time. Other members of Management may be required to attend meetings as requested by or agreed with the Chair and Directors.

The Secretary, in conjunction with the Chair and the CEO, shall prepare an agenda for each meeting which shall be circulated to the Board, together with supporting documentation, within a reasonable period in advance of the meeting, usually at least one week prior to each meeting.

Draft minutes of each Board meeting will be prepared by the Secretary and reviewed by the Chair. The draft Minutes shall then be circulated to all Directors and tabled at the next meeting of the Board for review and approval.

## **Forward agenda**

The Secretary will maintain a forward agenda, including meeting dates, which sets out the scheduled matters to be addressed by the Board for the following 12 month period. The forward agenda will be used to distribute the business of the Board across the year and to assist the Board in determining the extent to which it has met its responsibilities under this Charter.

## **Board committees**

The Board may establish standing or special purpose committees to assist it in discharging its duties and responsibilities. The Board may delegate such authorities to its Committees as it sees fit, however the ultimate responsibility for these matters is retained by the Board. The Board determines the composition and membership of its Committees.

The Board has established the Audit & Risk Management Committee and the Human Resources & Nominations Committee as standing Committees.

Minutes of all committee meetings are provided to the Board. Where all Directors are not present at a Committee meeting, the Committee Chair will report at the next possible Board meeting on the material issues discussed at a Committee meeting.

The role, function and operation of each standing committee is set out in a written charter. Committees review their charters each year and any substantive changes are approved by the Board.

Standing committees will report annually to the Board on their operations and achievements, including the discharge of their responsibilities under their charters.

## Document Control

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