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# Board Charter

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## Contents

<b>Overview</b> .....	5
<b>The role of the Authority</b> .....	5
<b>Membership of the Board</b> .....	6
Appointment.....	6
Induction and ongoing training.....	6
Leave of absence.....	6
Resignation and termination .....	6
<b>The role of the Board</b> .....	7
Board functions.....	7
Powers of the Board .....	7
Delegation of powers.....	8
<b>The role of the Chair</b> .....	8
<b>The role of the responsible Minister</b> .....	9
Leave of absence.....	9
<b>The role of the Stakeholder Panel</b> .....	9
<b>The role of the CEO</b> .....	10
Appointment of the CEO.....	11
<b>Duties and behavioural expectations of Board members</b> .....	11
Disclosure of interests.....	13
Confidentiality.....	13
<b>Board Meetings</b> .....	14
Meeting frequency.....	14
Meeting procedure .....	14
Board decisions without meetings (out-of-session) .....	15
Requesting information, advice and assistance .....	16
<b>Performance review of the Board</b> .....	16
<b>Audit and Assurance arrangements</b> .....	17
<b>The role of the Board Secretary</b> .....	17
<b>Attachment A – Detailed roles and activities of the Board</b> .....	18
<b>BUSINESS STRATEGY AND EXECUTION</b> .....	18
Define strategy.....	18
Oversee delivery .....	18
Consider stakeholder inputs .....	19
<b>GOVERNANCE OF THE AUTHORITY</b> .....	19

Maintain an effective internal control framework ..... 19

Risk Management ..... 19

Transparency and accountability ..... 19

BOARD AND ORGANISATIONAL EFFECTIVENESS ..... 20

Board governance, capability and performance..... 20

Capability and performance of the Authority’s leadership ..... 20

People and Culture..... 20

Financial and resource management..... 21

## Overview

1. This Board Charter sets out the functions, roles, responsibilities and accountabilities of the Board of the Net Zero Economy Authority (the Authority), including the Chair. It also describes the role of the CEO of the Authority as it relates to the Board, and of a Board Secretary.
2. This charter draws on best practice for public sector boards, particularly ANAO audit insights on public sector board governance and *Governance principles for boards of public sector entities in Australia, 2023* (Governance Institute of Australia).<sup>1</sup> Both identify the importance of having a board charter that provides board members with a clear and shared understanding of their roles, powers, responsibilities and accountabilities.
3. This Charter reflects legislation and government policies applying to the Authority, particularly:
  - a. the *Net Zero Economy Authority Act 2024* (NZEA Act)
  - b. the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), Rules under the PGPA Act, and associated Resource Management Guides and Better Practice Guides issued by the Department of Finance, and
  - c. the *Public Service Act 1999* (PS Act).
4. The Charter is supplemented by detailed policies and procedures approved by the Board, and where relevant, the CEO (or delegate).

## The role of the Authority

5. The Authority is established by section 14 of the NZEA Act as a statutory authority, and is constituted by the Board, the Chief Executive Officer (CEO) and Authority staff.<sup>2</sup>
6. The functions of the Authority are:<sup>3</sup>
  - a. consulting and cooperating with persons, organisations and governments to support Australia's transition to a net zero emissions economy
  - b. facilitating public and private sector participation and investment in net zero transformation initiatives, including referring matters to specialist investment vehicles and other entities
  - c. supporting workers in emissions intensive industries to access new employment or improve their employment prospects, and
  - d. supporting and delivering educational and promotional initiatives to promote an understanding of, and encourage participation in, Australia's transition to a net zero emissions economy.
7. The NZEA Act says that, in performing the Authority's functions, the Authority should prioritise communities, regions, industries and workers that are, or will be, significantly affected by Australia's transition to a net zero emissions economy.<sup>4</sup>

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<sup>1</sup> Board Governance | Australian National Audit Office (ANAO): <https://www.governanceinstitute.com.au/advocacy/governance-principles-for-boards-of-public-sector-entities-in-australia-guide-2023/>

<sup>2</sup> Section 15 of the NZEA Act.

<sup>3</sup> Section 16 of the NZEA Act.

<sup>4</sup> Sub-section 16(2) of the NZEA Act.

## Membership of the Board

### Appointment

8. The Board consists of a Chair and at least 6 and not more than 8 other members.
9. Board members are appointed by the responsible Minister on a part-time basis and for a specified period not exceeding 5 years.<sup>5</sup> Section 23 of the NZEA Act sets out eligibility requirements governing appointments to the board.
10. Board appointments are managed by the Portfolio Department advising the responsible Minister. The Board and CEO have a role in supporting this function through periodic performance review of the board and its members, and in actively considering current and future skill requirements and succession planning (see below).
11. Remuneration of Board members is set by the Remuneration Tribunal, based on advice from the Portfolio Department. Board member remuneration must be disclosed in the Annual Reports of the Authority.<sup>6</sup>
12. The responsible Minister may set terms and conditions applying to board member appointments. At the time of writing, no terms and conditions have been set other than the duration of appointments.

### Induction and ongoing training

13. Incoming Board members will be provided with an induction pack and program, organised by the Board Secretary.
14. Board members will have the opportunity to participate in learning and development activities relevant to the effective operations of the Board. The Board Secretary will support the Board and individual members to consider needs and opportunities, and arrange activities, in consultation with the Chair and CEO.

### Leave of absence

15. Board members may request leave of absence in writing to the Chair and Board Secretary. The Chair is responsible for approving requests and any terms and conditions. The Chair must report any leave of absence greater than 3 months to the responsible Minister.
16. While on a leave of absence, a Board member is not required to participate in meetings or any other business of the board. The member's remuneration will be proportionately reduced for any approved leave of absence of more than three months, unless otherwise agreed by the Chair.
17. The responsible Minister can grant the Chair a leave of absence on terms and conditions the Minister determines.

### Resignation and termination

18. Board members (including the Chair) can resign at any time in writing to the responsible Minister. Resignation takes effect on the day it is received by the Minister, unless the resignation specifies a later date. As a matter of good practice, a Board member should consult with the Chair and CEO prior to tendering a resignation to the Minister.

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<sup>5</sup> Sections 21-22 of the NZEA Act.

<sup>6</sup> Section 17AD(da) of the PGPA Rule.

19. The responsible Minister may terminate the appointment of a board member (including the Chair) on grounds set out in the NZEA Act, which include:
- a. misbehaviour
  - b. physical or mental incapacity
  - c. bankruptcy
  - d. absence from 2 consecutive meetings of the Board without an approved leave of absence
  - e. failure, without reasonable excuse, to comply with the duty to disclose interests (section 29 of the PGPA Act – further detail below), or
  - f. a majority of the Board members recommend that the responsible Minister terminate the appointment.

## The role of the Board

### Board functions

20. The primary functions of the Board under the NZEA Act are to:
- a. ensure the proper, efficient and effective performance of the functions of the Authority and CEO
  - b. determine the objectives, strategies and policies to be followed by the Authority and the CEO in the performance of their respective functions
  - c. ensure the CEO complies with requests made by the Minister under s.72 of the NZEA Act,<sup>7</sup> and
  - d. make recommendations to the Minister on the appointment of a CEO.
21. The Board also performs the functions of an *accountable authority* under the PGPA Act. This Act imposes a number of duties and functions on board members, collectively and individually, related to the effective governance of the organisation. These duties are set out in greater detail below.
22. Attachment A provides a detailed outline of the issues the Board is responsible for and the means through which the Board will acquit these responsibilities.

### Powers of the Board

23. The Board has the power to do all things necessary or convenient to be done in connection with the performance of its functions under the NZEA Act.<sup>8</sup>
24. The Board may give written directions to the CEO in relation to:
- a. the performance of the Authority's functions or the exercise of the Authority's powers, or
  - b. the performance of the CEO's functions or the exercise of the CEO's powers but must not give a direction to the CEO in respect of Part 5 (Energy industry jobs plan) of the NZEA Act.<sup>9</sup>

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<sup>7</sup> Section 19 of the NZEA Act. However, any objective, strategy or policy determined by the Board in respect of Part 5 of the NZEA Act (Energy industry jobs plan) must be of a general nature only.

<sup>8</sup> Sub-section 19(2) of the NZEA Act.

<sup>9</sup> Section 41 of the NZEA Act.

25. The NZEA Act provides the Board with specific powers to:
- a. make an arrangement whereby a state or territory employee<sup>10</sup> or a consultant<sup>11</sup> assists the Authority with the performance of its functions
  - b. authorise the disclosure of information to, and use information from, other entities and individuals<sup>12</sup>, and
  - c. recommend to the Minister that a review be conducted of the operation of the NZEA Act.<sup>13</sup>
26. The Board also has a range of powers under the PGPA Act and Rules.
27. The Board has the power to establish sub-committees and advisory committees<sup>14</sup>.

### Delegation of powers

28. The Board may, in writing, delegate particular powers and functions under the NZEA Act to the CEO, NZEA staff, persons assisting the Authority and consultants.<sup>15</sup>
29. The Board can delegate some, but not all, functions and powers it holds as an *accountable authority* under the PGPA Act<sup>16</sup>.
30. The Board Secretary will support the Board to establish and maintain Accountable Authority Instructions and other delegations to support efficient operations and good governance.

### The role of the Chair

31. Legislatively, the Chair has the same functions and powers as other Board members, with the exception of their responsibility to convene and preside over Board meetings and to determine Board member leave of absence requests.
32. However, as a matter of practice, the role of the Chair will include:
- a. leading and directing the Board to ensure that it is effectively performing its functions and exercising its powers
  - b. leading and directing other Board members to ensure that they are effectively performing their roles
  - c. convening and presiding over Board meetings
  - d. ensuring Board meetings are effective, efficient, respectful and allow for robust debate
  - e. ensuring that each Board member has the opportunity to be heard at all meetings and bring an independent judgment to bear in decision making
  - f. ensuring that any Board resolution accurately reflects the views of the board
  - g. leading consultation with the Board in relation to providing a recommendation to the responsible Minister on appointing a CEO

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<sup>10</sup> Section 52 of the NZEA Act.

<sup>11</sup> Section 53 of the NZEA Act.

<sup>12</sup> Sections 76-78 of the NZEA Act.

<sup>13</sup> Section 80A of the NZEA Act.

<sup>14</sup> Section 24 of the PGPA Act

<sup>15</sup> Section 79 of the NZEA Act. The section sets out the extent to which delegations are able to be made and the conditions applicable to such delegations.

<sup>16</sup> [PGPA legislation, associated instruments and policies | Department of Finance](#), section 110 of the PGPA Act.



- h. monitoring, assessing and providing feedback, in consultation with Board members, on the CEO's performance
- i. being the spokesperson for the Board
- j. being a spokesperson for the Authority, in addition to other Authority officials
- k. overseeing the functions of the Board and any Board committees
- l. establishing and maintaining an effective working relationship with the CEO over all operational matters
- m. establishing and maintaining effective working relationships with the responsible Minister, and
- n. establishing and maintaining effective working relationships with other key stakeholders.

## The role of the responsible Minister<sup>17</sup>

- 33. Under the NZEA Act, the Minister is responsible for:
  - a. appointments to the Board
  - b. appointment of the CEO, based on the recommendation of the Board
  - c. the termination of Board and CEO appointments, one of the grounds for which is the recommendation from the majority of the Board.
- 34. The Minister is responsible for taking proposals and advice generated by the Authority to Cabinet and Cabinet committees. The Minister is ultimately responsible for the content of such advice to Government.
- 35. The responsible Minister may issue a 'Statement of Expectations' outlining the Government's priorities and expectations for the work of the Authority. The Authority will respond with a 'Statement of Intent' outlining how it intends to address the Government's expectations and priorities.
- 36. The responsible Minister may give directions to the Board. Ministerial directions may only be of a general nature, and may not relate to powers and functions of the Board under the PGPA Act.<sup>18</sup> Directions must be published. The Board must comply with a direction from the Minister.
- 37. The responsible Minister may request from the Board and/or CEO a report or advice on a matter relating to the Authority, Board and/or CEOs functions, powers and duties.<sup>19</sup> The Board and/or CEO (as applicable) must comply with such requests.

## Leave of absence

- 38. The responsible Minister must approve a leave of absence for the CEO, and any acting arrangements while the CEO is on leave.

## The role of the Stakeholder Panel

- 39. The NZEA Act requires that the Board establish a Stakeholder Panel.<sup>20</sup> The Panel's function is to, at the direction of the Board, give non-binding advice to the Board.

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<sup>17</sup>As at 12 December 2024, the date this Charter was approved, the responsible Minister is the Prime Minister. The Prime Minister has asked Assistant Minister Ayres to lead day to day Ministerial oversight of the Authority on his behalf.

<sup>18</sup> Section 20 of the NZEA Act.

<sup>19</sup> Section 72 NZEA Act.

<sup>20</sup> Section 70 of the NZEA Act.

40. The CEO and Board Secretary will support the Board to:
- a. develop and maintain terms of reference for the Stakeholder Panel
  - b. appoint Stakeholder Panel members, and
  - c. convene meetings of the Stakeholder Panel.

## The role of the CEO

41. The CEO is responsible for:<sup>21</sup>
- a. the day-to-day administration of the Authority
  - b. being the 'Agency Head' of the Authority for the purposes of the *Public Service Act* (PS Act)
  - c. assisting the Board in the performance of its functions, and
  - d. administering functions and power vested in the CEO under Part 5 (Energy Industry Jobs Plan) of the NZEA Act.
42. The CEO is required to:
- a. act in accordance with the objectives, strategies and policies determined by the Board, and
  - b. comply with any written direction by the Board, except to the extent that the direction relates to the CEO's performance of functions or exercise of powers under the PS Act in relation to being the Agency Head of the Authority.<sup>22</sup>
43. The CEO may, in writing:
- a. delegate all or any of the CEO's functions, powers or duties under the NZEA Act to a member of the staff of the Authority who is an SES employee or an acting SES employee,<sup>23</sup> or
  - b. sub-delegate specified functions and powers delegated by the Board to the CEO.<sup>24</sup>
44. The CEO's role as Agency Head of the Authority for the purposes of the PS Act carries with it (among other things):
- a. the power to employ people as Australian Public Service (APS) employees
  - b. the power to determine employment conditions and policies
  - c. an obligation to promote the APS Values and Employment Principles, and to uphold the APS Code of Conduct, within the Authority, and
  - d. the power to delegate functions and powers under the PS Act and Regulations to staff of the Authority.
45. The Board does not have powers in relation to the PS Act and must not direct the CEO in relation to the PS Act responsibilities vested in the CEO.<sup>25</sup>

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<sup>21</sup> Section 40 of the NZEA Act.

<sup>22</sup> Section 41 of the NZEA Act.

<sup>23</sup> Section 80 of the NZEA Act. The section also sets out limitations on the CEO's delegation power.

<sup>24</sup> Section 79(4) of NZEA Act

<sup>25</sup> Section 41(4) NZEA Act

## Appointment of the CEO

46. The CEO is appointed by the responsible Minister, by written instrument, on the recommendation of the Board. The inaugural CEO may be appointed without a recommendation from the Board.
47. The Merit and Transparency Policy<sup>26</sup> applies to the CEO position. It requires that a competitive merit-based process is used to support the selection of a CEO, unless specified exceptions apply.
48. The Portfolio Department is responsible for supporting the responsible Minister and Board in relation to the recruitment and appointment of the CEO.
49. Remuneration of the CEO is set by the Remuneration Tribunal, based on advice from the Portfolio Department. Remuneration must be disclosed in the Annual Reports of the Authority.<sup>27</sup>
50. The CEO can resign at any time in writing to the Minister. Resignation takes effect on the day it is received by the Minister, unless the resignation specifies a later date. As a matter of good practice, the CEO should consult with the Chair prior to tendering their resignation to the Minister.
51. The Minister may terminate the appointment of the CEO based on grounds set out in the NZEA Act, which include:
  - a. misbehaviour
  - b. physical or mental incapacity.
  - c. bankruptcy
  - d. absence for 14 consecutive days or for 28 days in any 12 months, without an approved leave of absence
  - e. the CEO engages, except with the Minister's approval, in paid work outside the duties of the CEO's office
  - f. failure, without reasonable excuse, to comply with the duty to disclose interests (section 29 of the PGPA Act – further detail below), or
  - g. a majority of the Board members recommend that the Minister terminate the appointment.

## Duties and behavioural expectations of Board members

52. Board members are appointed in an individual and personal capacity, based on their skills, experience and expertise. Appointments are not representational in nature – i.e. members do not, and should not, represent other organisations or constituencies in their role as a board member. Board members carry legal duties to act in the best interests of the Authority when engaging in their role as a board member.
53. The Board, as an accountable authority under the PGPA Act, has a collective duty to:<sup>28</sup>
  - a. govern the Authority in a way that promotes:
    - i. the proper use and management of public resources for which the Authority is responsible, in a way that is not inconsistent with Australian Government policies relating to the management and expenditure of public resources<sup>29</sup>

<sup>26</sup> [Government's merit and transparency policy | Australian Public Service Commission \(apsc.gov.au\)](https://www.apsc.gov.au/government-merit-and-transparency-policy)

<sup>27</sup> Section 17AD(da) of the PGPA Rule.

<sup>28</sup> Sections 15-19 and 21 of the PGPA Act.

<sup>29</sup> The policies and legislative provisions related to the handling and expenditure of public resources are primarily: PGPA Act sections: 15, 21, 23, 52, 60, 71, 103, 105 and 105B; PGPA Act Rule: sections 18 and 29; *Commonwealth Procurement Rules*, *Indigenous Procurement Policy*, *Commonwealth Grants Rules and Principles 2024*, *Commonwealth Supplier Code of Conduct*,

- ii. the achievement of the Authority's purposes, and
    - iii. the financial sustainability of the Authority
  - b. establish and maintain:
    - i. an appropriate systems of risk oversight and management for the Authority, and
    - ii. an appropriate system of internal control for the Authority
  - c. encourage Authority officials to cooperate with other officials across the APS to achieve common objectives
  - d. keep the responsible Minister informed about significant decisions, activities and issues impacting the Authority, and
  - e. keep the Finance Minister informed on significant issues affecting the Authority, particularly as it relates to PGPA Act responsibilities (i.e. financial management and good governance).
- 54. Board members are also *officials* under the PGPA Act (along with the CEO and Authority staff). As *officials*, all Board members are subject to duties to:<sup>30</sup>
  - a. exercise their powers, perform their functions and discharge their duties:
    - i. with the care and diligence of a reasonable person, and
    - ii. honestly, in good faith, and for a proper purpose.
  - b. disclose material personal interests related to the Authority's affairs
  - c. not improperly use their position to gain a benefit for themselves or others and/or cause detriment to the Authority or others, and
  - d. not improperly use the information obtained as an official to gain a benefit for themselves or others and/or cause detriment to the Authority or others.
- 55. Further information and guidance on the duties of Board members under the PGPA Act is available in *RMG 200 Duties of Accountable Authorities* and *RMG 203 General Duties of officials*.<sup>31</sup>
- 56. As *statutory office holders* for the purposes of the PS Act, the Australian Public Service (APS) Code of Conduct<sup>32</sup> applies to Board members. The Code of Conduct requires that Board members, in connection with their role:<sup>33</sup>
  - a. behave honestly and with integrity
  - b. act with care and diligence
  - c. treat other Board members, staff and external stakeholders with respect and courtesy, and without harassment
  - d. comply with all applicable Australian laws
  - e. comply with any lawful and reasonable direction given by someone who has authority to give the direction

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*Resource Management Guide (RMG) 411: Grants, procurements and other financial arrangements*, RMGs 412, 414, 415, 416, 417, 420, 421 and 423, and the *Commonwealth Risk Management Policy*.

<sup>30</sup> Sections 25-29 of the PGPA Act.

<sup>31</sup> <https://www.finance.gov.au/government/managing-commonwealth-resources/duties-accountable-authorities-rmg-200>

<sup>32</sup> <https://www.apsc.gov.au/working-aps/integrity/integrity-resources/code-of-conduct>

<sup>33</sup> Some of these obligations complement/reflect those within the PGPA Act discussed earlier.

- f. maintain appropriate confidentiality about dealings that they have with any Minister or Minister's member of staff
  - g. take reasonable steps to avoid any conflict of interest (real or perceived) and disclose details of any material personal interest as they arise
  - h. use Commonwealth resources in a proper manner and for a proper purpose
  - i. not provide false or misleading information in response to a request for information that is made for official purposes
  - j. not improperly use inside information or improperly use their duties, status, power or authority
  - k. not gain, or seek to gain, a benefit or an advantage for themselves or any other person
  - l. not cause, or to seek to cause, detriment to the Authority, the Commonwealth or any other person
  - m. behave at all times in a way that upholds the APS Values and Employment Principles, and the integrity and good reputation of the Authority and the APS, and
  - n. behave, while on duty overseas, in a way that upholds the good reputation of Australia.
57. Consistent with best practice public sector governance practices, Board members, including the Chair, are expected to:
- a. pursue the legislative objectives of the Authority
  - b. pursue Board agreed strategic priorities of the Authority
  - c. be committed to act in the best interests of the Authority
  - d. understand and work within the legal and administrative framework of the Authority
  - e. work to support public confidence in the Authority, and
  - f. prepare for meetings, attend meetings and participate actively in discussions.

### Disclosure of interests

58. Board members, prior to and during their appointment as Board members, are under an ongoing obligation to disclose and manage any material personal interest.<sup>34</sup>
59. Disclosure and management of the material personal interests of Board members is to be done consistently with the Authority's Conflict of Interest Policy.

### Confidentiality

60. All Board papers, reports (drafts and finals), research documents, verbal advice and discussions at Board meetings, and/or provided to Board meetings, are confidential and must not be disclosed to persons not part of those meetings or discussions, unless that disclosure has been authorised by the Authority, its procedures, the Chair and/or the CEO, or is required by law.

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<sup>34</sup> Section 26 of the NZEA Act; PGPA Act and PS Act.

61. The Board Secretary will facilitate the development of protocols and guidance for Board members to support their public and stakeholder communications about the activities of the Authority and the Board.
62. Board members must only discuss or release information about the activities and decisions of the Authority and Board in accordance with the Authority's communications processes and protocols discussed below.

## Board Meetings

### Meeting frequency

63. The Board must hold such meetings as are necessary for the efficient performance of its functions, but is required to have at least 6 meetings a year.
64. The Chair:<sup>35</sup>
  - a. must convene at least 6 meetings each calendar year
  - b. must convene a meeting within 30 days of receiving a written request from another Board member to do so, and
  - c. may convene a meeting at any other time.

### Meeting procedure

65. The Board may regulate proceedings at its meetings as it considers appropriate. This includes the use of *in camera* sessions, and participation via video or tele-conference.
66. The Chair must preside at all meetings at which they are present. If the Chair is not present at a meeting, the other Board members present must appoint one of themselves to preside.<sup>36</sup>
67. At a meeting of the Board, a quorum is constituted by a majority of Board members. If a quorum cannot be established on a particular matter because a member is not present on a particular item as part of managing a conflict of interest, the remaining board members represent a quorum.<sup>37</sup>
68. While the Board must comprise the chair and at least 5 other members, the performance of the functions or the exercise of the powers of the Board is not affected by reason only of the number of Board members falling below this for a period of not more than 3 months.<sup>38</sup>
69. A question arising at a Board meeting is to be determined by a majority of the votes of the Board members present and voting. The person presiding at the Board meeting has a deliberative vote and, if the votes are equal, a casting vote.<sup>39</sup>
70. The Board must keep minutes of its meetings and a record of Board decisions made without meetings.<sup>40</sup> The Board Secretary is responsible for taking minutes of meetings and for recording Board decisions made without meetings for endorsement by the Board.

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<sup>35</sup> Section 31 of the NZEA Act.

<sup>36</sup> Section 32 of the NZEA Act.

<sup>37</sup> Section 33 of the NZEA Act.

<sup>38</sup> Sub-section 21(2) of the NZEA Act.

<sup>39</sup> Section 34 of the NZEA Act.

<sup>40</sup> Sections 36-37 of the NZEA Act.

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71. A Board Communique will be published as soon as practical following Board meetings, to provide a high-level summary of the key issues considered by the Board, and if appropriate, decisions taken. The Communique will be approved by the Chair, in consultation with Board members.
72. The Chair, CEO and Board Secretary will develop a forward meeting schedule on a rolling 12 month basis that includes the dates, location and proposed agenda items for each Board meeting.
73. At least four weeks prior to the date of the next Board meeting, the Chair, CEO and Board Secretary should finalise the agenda for the Board meeting. In preparing agendas, Board members will be consulted and can request the inclusion of a particular item on a meeting agenda.

#### Board decisions without meetings (out-of-session)

74. The Board may make a decision without a meeting (out-of-session) in accordance with the following procedure:
  - a. With the consent of the Chair, the Board Secretary will provide notice to each Board member, via email, advising that the Board is required to make a decision which is not able to be deferred until the next scheduled Board meeting.
  - b. The notice must set out:
    - i. The rationale for the out-of-session process.
    - ii. The timetable for Board members to make their decision. The Chair, in consultation with the Board Secretary, will determine the period available, but it may not be less than 24 hours.
    - iii. The ways in which Board members are to indicate agreement or otherwise.
  - c. Members are required to notify the Board Secretary of any interests that may represent a real or apparent conflict with the issue under consideration. The Board Secretary will manage such issues in accordance with the Authority's Conflict of Interest Policy.
  - d. The out-of-session decision will be determined if, by (or before) the requested time for response, a majority of members entitled to vote indicate agreement (or otherwise). If there are insufficient responses to meet this requirement, the Chair may extend the period for responses, or initiate a new out of session process.
  - e. The Board Secretary will:
    - i. record out-of-session decisions and associated processes in writing as soon as practical, with the record to be noted at the next Board meeting, and
    - ii. inform the Board members of the out-of-session decision within 24 hours of the decision being determined.
75. To avoid doubt, this procedure is intended to address the requirements of the NZEA Act subsection 37(2) (which requires that the Board determine which issues can be determined without a meeting, and how).

OFFICIAL

## Requesting information, advice and assistance

76. Board members are entitled to request:
- a. information or support they consider is reasonably necessary to support the performance of their duties as a Board member, and/or
  - b. independent professional advice (other than in relation to potential conflicts of interest, which are dealt with under the Authority's Conflict of Interest Policy) which includes, but is not limited to legal, accounting and financial advice, at the Authority's expense on any matter connected with the discharge of their role as Board member.
77. All Board member requests for information or support, or independent professional advice, must be communicated to the Chair in writing for approval and cc'd to the CEO and Board Secretary. If approved by the Chair, the Board Secretary will facilitate the obtaining of the information, support or advice and, where relevant, its communication to all Board members (subject to any confidentiality or privacy issues). If information is sought by the Chair, the request is to be approved by the CEO or Board Secretary.
78. Board members, other than the Chair, should not directly contact Authority staff, other than the CEO, or the Secretariat on administrative matters relating to their remuneration arrangements and Board meeting logistics including travel, or in the context of a request for information, support or advice that has been approved in line with paragraphs 76 and 77.

## Performance review of the Board

79. The Board will commence a review of the operation of the Board (the Board review) 12 months after the date of the establishment of the Authority and biannually thereafter. Board reviews are to be completed and provided to the Board for consideration within 3 months.
80. The Board review should include:
- a. the Board's performance in exercising its functions and powers and how the Board's performance could be improved
  - b. the personal and professional contribution of each Board member to the Board's performance and how their performance, or that of the Board, could be improved
  - c. the skills and expertise requirements of the Board to inform learning and development, and succession planning
  - d. consultation with, and feedback from, the responsible Minister, Board members, Audit and Risk Committee members, the CEO and the Board Secretary
  - e. the operation of this Charter and how it could be improved, and
  - f. any other matters the Chair, Board or CEO consider relevant.
81. The Chair is primarily responsible for overseeing the Board review. The Chair may delegate aspects of the Board review to other Board members, the CEO or Authority staff, or engage external consultants to assist with the Board review process.
82. The Board may, at any time, on such terms and conditions as it considers appropriate, also conduct additional reviews of specific issues related to the Board's performance.



## Audit and Assurance arrangements

83. The Board will be supported by an Audit and Risk Committee, and by internal and external (ANAO) auditors.
84. A Charter for the Audit and Risk Committee will be developed and agreed by the Board, setting out arrangements, including the manner in which internal audit activities are planned, and arrangements for reporting from the Committee to the Board.

## The role of the Board Secretary

85. The Board will be supported by a Board Secretary who is responsible for working with the Chair and CEO to:
  - a. assist the Board to effectively, appropriately and compliantly perform its functions and exercise its powers under the NZEA Act, PGPA Act and other applicable legislation and Australian Government policies
  - b. oversight the reporting, monitoring and management of probity, conflicts of interest and confidentiality issues in relation to the Board
  - c. provide Secretariat support to the Board, including:
    - i. facilitating meetings of the Board and Stakeholder Panel
    - ii. preparing the agendas and meeting papers for Board and Stakeholder Panel meetings, including ensuring the quality of papers and advice going to the Board, and that the Board is not overloaded with unnecessary detail or information
    - iii. ensuring there is appropriate documentation and records of Board decision-making processes and outcomes, including taking minutes of Board meetings, coordinating the approval and circulation of the minutes, and tracking decisions.
    - iv. managing Board in-session and out-of-session processes, and
    - v. managing and coordinating input to the Forward Work Plan
  - d. induction, learning and development needs for the Board
  - e. supporting performance reviews of the Board
  - f. working with the Chair and Board to ensure there is appropriate reporting from management to the Board, and on progress against deliverables and performance targets, and
  - g. facilitating advice and assurance for the Board from the Audit and Risk Committee and auditors.
86. The Board will evaluate the performance and effectiveness of the Board Secretary function at least annually.

## Attachment A – Detailed roles and activities of the Board

Based on the provisions of the NZEA Act, PGPA Act and other relevant legislation, and having regard to best practice guidance,<sup>41</sup> the Board performs the following roles and activities. The Board Secretary will support the Chair and Board to conduct meetings and other business that enables the Board to discharge these roles and responsibilities.

### BUSINESS STRATEGY AND EXECUTION

The Board is responsible for setting the business strategy of the Authority and overseeing its delivery. The primary activities it will do to support this are below.

#### Define strategy

- Annually approve a (public) Corporate Plan, developed in accordance with the requirements of the PGPA Act and Rules, and in consultation with the responsible Minister.
- Approve Agency-wide internal business planning, including defining key deliverables, on at least an annual basis.
- Set strategies and policies to guide delivery of Authority functions.
- Make directions to the CEO (note: the Board may not make directions in relation to the CEO's statutory roles under Part 5 of the Act).
- Consider directions from the responsible Minister to the Authority and take appropriate actions to ensure implementation/compliance.
  - If the responsible Minister issues a Statement of Expectations for the Authority, develop and approve a Statement of Intent in response, and monitor delivery.
- Consider reviews by the Audit and Risk Committee on the Authority's corporate and business planning processes.

#### Oversee delivery

- Receive regular reporting on progress against key deliverables
  - Define desired Board engagement and oversight arrangements for key deliverables.
  - Approve internal KPIs and associated monitoring and reporting arrangements for tracking of key deliverables.
- Commission advice to inform the Board's consideration of matters.
- Commission and consider evaluations of Authority work and projects.
- Approve a performance framework for the Authority that is compliant with the requirements of the PGPA Act and Rules.
- Approve the annual performance statements of the Authority.

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<sup>41</sup> Notably *Governance Principles for boards of public sector entities in Australia, Second Edition, 2023, Governance Institute of Australia*.

- Consider reviews by the Audit and Risk Committee of the Authority's annual performance statement, and performance management framework, systems and processes.

#### Consider stakeholder inputs

- Establish a Stakeholder Panel; seek and consider its advice and inputs.
- Where warranted, advise on Authority stakeholder engagement strategies (e.g. in the broad, and/or for specific regions, projects or activities).

### GOVERNANCE OF THE AUTHORITY

The Board is responsible for governing the Authority under the PGPA Act and other legislation.

#### Maintain an effective internal control framework

- Approve and periodically review Accountable Authority Instructions and delegations.
- Approve and periodically review business rules and policies directed at legislative compliance (e.g. fraud, corruption and integrity; protective security; information management).
- Approve and periodically review policies and practices for the management of conflicts of interest.
- Receive periodic reporting on legislative compliance.
- Establish, and periodically review the effectiveness of, an Audit and Risk Committee.
- Approve an annual internal audit workplan.
- Receive and consider regular reporting and advice from the Audit and Risk Committee.

#### Risk Management

- Approve the Authority's Risk Management Policy and Framework, including setting risk appetite and tolerances.
- Receive regular reporting on risk, including a Strategic and Enterprise Risk register, project risks of importance to the Board, and emerging risks.
- Consider reviews by the Audit and Risk Committee on the adequacy of the Authority's risk management systems and practices, and areas for improvement.

#### Transparency and accountability

- Approve policies and procedures under the *Freedom of Information Act* and *Privacy Act* and other relevant legislation, with regular reporting and review of the effectiveness of arrangements.
- Approve the Authority's policies and procedures in relation to transparency and disclosure.
- Review and approve the Authority's Annual Report, including to ensure compliance with the NZEA Act and PGPA Act requirements.

## OFFICIAL

- Define and deliver arrangements for reporting by the Board to the responsible Minister and the Finance Minister, and the relationship with the Minister more broadly.
- Approve policies and procedures related to the NZEA Act provisions related to the disclosure and use of information (sections 76, 77 and 78).
- Provide reporting or advice to the Minister as directed under section 72 of the NZEA Act.

### BOARD AND ORGANISATIONAL EFFECTIVENESS

The Board has a responsibility to continuously assess its operational effectiveness, and that of the organisation and its management, to drive performance and improvement.

#### Board governance, capability and performance

- Approve and periodically review the Board Charter.
  - As part of this, distinguish the roles of the Board and of management, and periodically review the effectiveness of these arrangements.
- Ensure there are appropriate arrangements in place for the effective conduct of Board meetings and other business, including development of agendas, papers and record keeping of meeting minutes and actions.
- Undertake and consider periodic performance reviews of the Board and its members.
- Identify learning and development needs for the Board and its members, to support Board effectiveness.
- Provide advice to the responsible Minister (via the Portfolio department) in relation to board appointments, based on considerations such as skill requirements, diversity, performance and succession planning.
- Where warranted, establish and periodically review the effectiveness of, Board Committees.

#### Capability and performance of the Authority's leadership

- Make recommendations to the responsible Minister on the appointment, and if necessary the termination, of the CEO.
- Periodically review and provide feedback on the performance of the CEO, Board Secretary and other senior management of the Authority.

#### People and Culture

*Note: the CEO is 'Agency Head' under the PS Act, and as such has primary responsibility for people and culture issues. However, best practice governance guidance suggests that it is important that the Board also considers the role the culture of the organisation plays in successful delivery against objectives.*

- With the CEO, ensure there is clear definition of desired organisational culture, and that it is effectively modelled and supported through appropriate policies and processes.
  - Monitor culture, identify areas of risk or concern, and ensure appropriate actions are taken.

## OFFICIAL

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- Ensure the Authority has an effective diversity and inclusion framework in place, including a Reconciliation Action Plan.
- Ensure the Authority has an effective Work Health and Safety (WHS) framework, policy and systems in place, including through regular reporting and review, which meets legislative obligations on the board under the WHS Act and other legislation.
- Administer (directly or via delegation) NZEA Act provisions that allow the Board to make arrangements whereby a state or territory employee or a consultant assists the Authority with the performance of its functions.

### Financial and resource management

- Receive and consider regular budget reporting, including internal budget decisions by the CEO and financial performance against the budget.
- Consider advice from the Audit and Risk Committee on the adequacy of financial management and reporting systems.
- Approve annual financial statements, having regard to advice from the Audit and Risk Committee.
- Review funding proposals to Government that impact resourcing for the Authority.
- Approve the Authority's accommodation strategy.

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