



BUSINESS NSW BOARD CHARTER

1. INTRODUCTION

- 1.1. NSW Business Chamber Ltd (trading as Business NSW) (**BNSW** or **Company**) is a public company limited by guarantee under the *Corporations Act 2001* (Cth) (**Corporations Act**). The Company is registered as a charity with the Australian Charities and Not-for-profits Commission (**ACNC**) and is governed in accordance with the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) (**ACNC Act**), the ACNC Governance Standards and the Constitution of BNSW (**Constitution**).
- 1.2. The Board of Directors (**Board**) is responsible for the corporate governance of BNSW. The Board seeks to undertake its role with the objective of ensuring the long-term health and success of the Company and its purpose.

2. PURPOSE

- 2.1 This Charter sets out the key responsibilities of the Board and how the Board will operate.
- 2.2 This Charter should be read as an expression of the principles to be applied for optimising corporate governance and accountability and in conjunction with the Board Manual and Constitution.

Version	1	Date Reviewed	27 April 2023	Document Owner	Legal
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3. ROLE OF THE BOARD

- 3.1. The Board is accountable to BNSW's members, and other legitimate stakeholders who are likely to sustain a social, financial, environmental or economic impact from the Company's actions. These stakeholders include customers, employees, regulators and the communities in which the Company operates and may be affected by the Company's activities.
- 3.2. The Board shall report to members annually through the provision of annual accounts, an annual report and at an annual general meeting called in accordance with the Corporations Act
- 3.3. The responsibility for the day-to-day management of BNSW is delegated by the Board to the Chief Executive Officer (**CEO**) and the executive team. The Board is required to ensure that this team is appropriately qualified and experienced to discharge their responsibilities and has in place procedures to assess the performance of the CEO and the executive team.
- 3.4. The Board may exercise all the powers of the company except for any which are required by the Corporations Act, ACNC Governance Standards or the Constitution to be exercised by the members in general meeting.
- 3.5. The duties and responsibilities of the Board include:

Strategy

- (a) approving the overall mission, strategy and direction of BNSW;
- (b) approving major capital expenditure, acquisitions, divestitures and other transactions or corporate actions in excess of delegated levels;

CEO, management and remuneration

- (c) appointing and determining the terms of appointment of, and, where appropriate, removing the CEO;
- (d) overseeing the appointment, terms of appointment and, where appropriate, the removal of the employees reporting directly to the CEO;
- (e) reviewing the performance of the CEO and overseeing the review of performance of the employees reporting directly to the CEO;
- (f) succession planning for the CEO and overseeing succession planning for employees reporting directly to the CEO;
- (g) approving the overall remuneration framework, including Director remuneration;
- (h) approving remuneration arrangements and outcomes for the CEO and the employees who report directly to the CEO;

Risk management

- (i) approving and overseeing BNSW's risk appetite statement framework and risk management framework;
- (j) overseeing significant business risks and reviewing how they are identified, managed, measured and resourced;
- (k) overseeing the environmental, social and governance impact of the Company's activities;

Governance and compliance

- (l) overseeing an appropriate corporate governance framework, including in relation to regulatory compliance, codes of conduct and external reporting;
- (m) overseeing compliance with the corporate governance framework to promote the desired culture (including risk culture) across BNSW;
- (n) considering and approving major policies of BNSW including those relating to external issues or developments that are relevant to the company;
- (o) determining the delegation of authority to individual Directors, the President, Board Committees, the CEO and management, and approving transactions in excess of delegated authority levels;
- (p) overseeing BNSW's work health and safety performance and compliance;
- (q) setting and monitoring corporate cultural standards and values;

Financial reporting and performance monitoring

- (r) approving the annual operating and capital budget;
- (s) approving the annual financial statements of the Company;
- (t) monitoring corporate performance against the strategic plan and budget, including assessing operating results to evaluate whether the business is being appropriately managed;
- (u) overseeing the integrity of BNSW's accounting and corporate reporting systems;
- (v) considering the appointment and removal of the Company's external auditor;
- (w) reviewing the performance and independence of the Company's external auditor; and
- (x) receiving from management any material correspondence from regulators and reports on any material interaction between management and regulators.

4. THE ROLE OF INDIVIDUAL DIRECTORS

4.1. General Duties

Directors have ultimate responsibility for the overall successful operations of the BNSW. Their duties relate to:

- the strategic direction of the Company;
- financial performance and solvency;
- the organisation's compliance with law including, but not limited to, safety and the environment; and
- oversight of key policy, control and accountability frameworks.

4.2. Legal Duties

The ACNC Governance Standards set core, minimum governance standards that all charities must meet. Governance Standard five requires that charities take reasonable steps to make sure that the members of their governing body know and understand their legal duties and carry out their duties. These duties generally require Responsible Persons (i.e., Directors) to be careful and conscientious in their roles and to act with common sense and integrity.

The key legal duties and responsibilities of Directors of BNSW as set out in ACNC Governance Standard 5 are:

- **To act with reasonable care and diligence.** Directors must exercise their powers and duties with the care and diligence that a reasonable person would if they were in the place of the Directors.
- **To act in good faith in the best interests of the charity and for a proper purpose.** Directors must make decisions that are in the best interest of BNSW and to further its charitable purpose. Once the Board has discussed and arrived at a decision on a matter, each Director must support the implementation of that Board decision as a loyal member of the Board even if the Director does not agree with that Board decision.
- **Not to improperly use information or position.** Any special knowledge that a Director gains as a Board or Committee member must only be used for the benefit of the Company and never to further personal or other interests. Similarly, a Director must not use their position to improperly gain an advantage for themselves or someone else, or cause detriment to the Company.
- **To disclose conflicts of interest.** If a Director's duty to act in the best interests of BNSW is in conflict with (or may conflict with) their personal interests they must disclose this responsibly. See further the Constitution (clause 44 and a summary of the Board's conflict of interest policy in this Charter.
- **To ensure that financial affairs are managed responsibly.** Directors must ensure there are systems and processes in place that ensure that the Company's resources are being effectively put towards its charitable purpose and are protected from misuse.
- **Not to allow the charity to operate while insolvent.** Directors must ensure that the Company can pay its debts when they are due or will become due and that it does not continue to operate if it cannot pay its debts.

4.3. Declaration of Interests

Good governance principles require the Board to operate with a culture of disclosure, recognition and active management of conflicts as they arise to ensure transparency and sound decision making. A perceived conflict of interest can be as damaging to the reputation of BNSW as an actual conflict.

The Board places great importance on making clear any existing interests or potential conflicts of interest of Directors.

- Any positions held with the BNSW or with other organisations and any business or personal matter which could lead to a conflict of interest of a material nature involving a Director and the Director's relationship with the BNSW, must be declared at the beginning of each meeting and recorded in the minutes.
- All conflicts of interest must be declared by the Director concerned at the earliest time after the conflict is identified.
- Where a conflict of interest is identified, the Director concerned shall not vote on any resolution relating to that conflict or issue unless the other Directors resolve that the Director in question can vote.

- The Director shall only remain in the room during any related discussion with approval of the Board.
- The President or Board will determine what records and other documentation relating to the matter will be available to the Director.
- Directors aware of a real or potential conflict of interest of another Director have a responsibility to bring this to the notice of the Board.

4.4. Confidentiality

Directors will be in possession of confidential information about BNSW and its affairs. They may only use that information in the proper performance of their duties or as required by law.

4.5. Ethical Standards

Directors are bound by the Directors' Code of Conduct set out in the Board Manual, which requires Directors to, among other things, act honestly, diligently, in good faith, for a proper purpose and in the best interests of the Company.

5. BOARD COMMITTEES

5.1. To assist it in carrying out its responsibilities, the Board has established three Committees:

- Audit, Risk & Compliance Committee;
- People, Remuneration & Culture Committee; and
- Investment Committee.

5.2. Each Committee is governed by a formal Charter.

5.3. The Board may establish such other standing or special purpose Committees to assist it in performing its responsibilities.

5.4. Papers for, and minutes of, all Committee meetings are made available to all Directors.

5.5. The existence of a Committee does not relieve the Directors of their legal duties and responsibilities or the Board of its accountability for the matters contained in this Charter.

6. ROLE OF THE PRESIDENT

6.1. The President's role is a key role, as they are elected as both the President of the Council and Chairperson of the Board.

6.2. The President presides over the Board, the Council and members meetings of BNSW.

6.3. The President is responsible for ensuring that the Board, Council and members meetings are conducted competently, efficiently and in a collegiate manner. The President must ensure that at members meetings, members have adequate opportunity to air their views and obtain answers to their queries.

6.4. The President is expected to provide leadership and effective performance of the Board, including.

- facilitating the effective contribution of all Board members;

- ensuring that Board members are well briefed and have access to information on all aspects of the Company's operations;
- acting as the Board's representative in dealings with management and ensuring that its views are communicated clearly and accurately;
- representing the views of the Board to the public and governments on appropriate occasions; and
- scheduling evaluations of the Board's performance.

7. THE ROLE OF THE CHIEF EXECUTIVE OFFICER

- 7.1 The CEO is responsible for implementing the Company's strategy within the risk appetite set by the Board and managing the organisation on a day-to-day basis in accordance with the powers and authority delegated by the Board.
- 7.2 The position reports to and is accountable solely to the Board. Only the President can direct the CEO. No other Director can do so without the approval of the President.

8. ROLE OF THE COMPANY SECRETARY

- 8.1. The Company Secretary is accountable to the Board on all matters relating to the proper functioning of the Board.
- 8.2. The Company Secretary facilitates BNSW's governance processes and is responsible for the coordination of Board meetings, including agendas, Board papers and minutes, for communication with regulatory bodies, and for all statutory and other filings.
- 8.3. The appointment and removal of a Company Secretary is subject to Board approval.
- 8.4. All Directors will have direct access to the Company Secretary.
- 8.5. The Company Secretary will attend all Board and Committee meetings (or receive updates from the President or Committee Chairs) to ensure accurate minutes are taken of each meeting.

9. DELEGATION OF AUTHORITY

9.1. Delegation to Management

Except for those matters specifically reserved for the Board:

- under applicable law,
- in the Constitution;
- this Charter a Committee Charter;
- in a resolution of the Board; or
- in a policy approved by the Board,

the Board delegates to management authority for the management and administration of BNSW. Management can subdelegate authority, but not the responsibility delegated to management.

9.2. Reporting to the Board

Management is required to regularly report to the Board concerning the authority exercised and matters which come, or may come within, the scope of matters reserved for the Board.

10. MEETINGS

- 10.1. The Board meets at least six times per annum and whenever necessary to address business which might arise between scheduled meetings. The Board will follow meeting guidelines set down to ensure all Directors are made aware of, and have available all necessary information, to participate in an informed discussion of all agenda items.
- 10.2. Senior members of management may be invited to attend Board meetings, as required, to present reports on, or seek approvals within their areas of responsibility.
- 10.3. A meeting of the Board can be convened at the written request of a Director.
- 10.4. The Board will strive to achieve consensus in decision making. However, in the absence of consensus, all questions arising at a meeting of the Board shall be decided by a majority of votes of Directors present and voting.
- 10.5. In the case of equality of votes the President shall have a second or casting vote.
- 10.6. A quorum of the Board is five (5) Directors.
- 10.7. The President in conjunction with the Secretary is responsible for the development of the agenda for Board meetings. The agenda will be circulated together with relevant meeting papers one (1) week before the meeting.
- 10.8. Minutes are to be a sufficient record of discussion that appropriately details the decision(s) and matters discussed at a Board meeting. The minutes reference Board papers tabled plus any official resolutions adopted by the Board. All decisions are recorded in the minutes by means of a formal resolution. A full set of minutes is kept by the Company Secretary.
- 10.9. Resolutions of the Board may be passed, in the absence of a meeting, by written resolution if all Directors entitled to vote on the resolution sign the resolution.

11. INDEPENDENT PROFESSIONAL ADVICE

- 11.1. The Board collectively, and each Director individually, may (subject to the following provision) take, at the Company's expense, such independent professional advice as is considered necessary to fulfil their relevant duties and responsibilities.
- 11.2. Individual Directors seeking independent professional advice must inform the President about the nature of and reasons for the advice sought prior to the advice being sought.
- 11.3. Copies of any such advice must be made available to all Directors unless the President otherwise agrees or making it available would be inappropriate (eg result in a waiver of legal professional privilege).

12. INDEMNITIES AND INSURANCE

12.1. Directors and Officers Indemnity

The Company indemnifies each Director and officer of the Company under the Constitution, to the maximum extent permitted by law against liability incurred in or arising out of the conduct of the Company or the discharge of the Director or officer's duties.

12.2. Directors Deed of Access and Indemnity

The Company has executed deeds of indemnity and access in favour of each Director of the Company. The Directors shall have complete access to BNSW employees and records.

12.3. Directors and Officers Insurance

The Company maintains directors and officers liability insurance while the Director is a Director of the Company and for seven (7) years from the date on which the Director ceases to act.

13. BOARD REVIEW AND SUCCESSION PLANNING

13.1. The Board will review its performance annually and consider changes to improve the effectiveness of the Board.

13.2. The annual review will include an evaluation of:

- The Board having regard to the requirements of this Charter and the principles of good governance;
- The Chair;
- Individual Directors' contribution to the Board;
- Board Committees.

13.3. The Board will engage an independent advisory firm with expertise in Board assessment to facilitate the process once [every [3] years].

13.4. The Board will develop and maintain a succession plan for itself.

14. DIRECTOR REMUNERATION

Directors receive remuneration for their role as a Director from an aggregated amount as resolved by the Council from time to time. They are entitled to be reimbursed for reasonable expenses incurred in undertaking their role.

15. DIRECTOR INDUCTION AND DEVELOPMENT

15.1. New Directors undergo a full induction into their role on the Board.

15.2. The Board allocates an annual budget to encourage Directors to participate in training and professional development programs to enable them to discharge their responsibilities.

16. REVIEW OF CHARTER

16.1. The Board shall review this Charter and the Committee Charters to determine its adequacy in light of BNSW's operations, risk environment and strategy, the external environment and contemporary governance practice at least once every two years, or sooner if material changes to business activities or the external environment warrant a review.

APPROVAL AND REVIEW

Approved by	Board
Policy owner	Board
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