



Australian Government



Northern Australia Infrastructure Facility

NAIF Board Charter

July 2020

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VERSION	AUTHOR/REVIEWER	REVISION	APPROVAL	APPROVAL DATE	NEXT REVIEW DATE
1.0	NAIF Management	Original	Board	August 2016	August 2017
2.0	NAIF Management	Annual review	Board	June 2017	June 2018
3.0	Manager, Governance, Compliance & Risk	Annual review	Board	June 2018	June 2019
4.0	Manager, Risk & Compliance	Annual review	Board	May 2019	May 2020
5.0	Company Secretary & Manager Compliance	Rewrite	Board	July 2020	July 2021

Document Purpose

This Board Charter sets out the structure, function, duties and responsibilities of the Board and the duties and responsibilities of the management of the Northern Australia Infrastructure Facility (NAIF).

1. Defining Governance

1.1 Board Composition

The Board is established under, and governed by, the provisions of the *Northern Australia Infrastructure Facility Act 2016 (Cth) (NAIF Act)*.

Part 5 Section 13 of the NAIF Act establishes the Board composition as:

- the Chair; and
- no less than 4 and no more than 6 other members.

1.2 Role of the Board

Pursuant to section 14(1) of the NAIF Act, it is the function of the Board to oversee the management of NAIF. Specifically, the Board are required;

- a) to decide, within the scope of the Investment Mandate, the strategies and policies to be followed by the Facility; and
- b) to ensure the proper, efficient and effective performance of the Facility's functions; and
- c) any other functions conferred on the Board by the Act.

It is noted that under section 14(3) of the NAIF Act, the Board has the power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

In doing so, the Board must set the strategic direction of NAIF, determine the corporate governance structure for NAIF, set the risk appetite of NAIF and determine the policies to be followed in the conduct of the affairs of NAIF. This will include compliance with Ministerial directions under the NAIF Act and general policies of the *Public Governance, Performance and Accountability Act 2013 (Cth)* ("PGPA Act").

The Board collectively, and each member individually, has the right to seek independent professional advice regarding the performance of the Board's functions, subject to the approval of the Chair, or in the Chair's absence, the Board. Any individual Board member may retain such independent advice, at the cost of NAIF, with the prior approval of the Chair.

1.3 Role of Individual Directors

Under the *Public Governance, Performance and Accountability Act 2013* Directors have several key duties, which modelled on those under the Corporations Act 2001;

- I. Duty of Care and Diligence
This duty requires a Director to act with the degree of care and diligence that a reasonable person might be expected to show in the role (PGPA s25).
- II. Duty to act honestly, in good faith and for proper purpose
This duty requires a Director to act in good faith in the best interests of NAIF and for a proper purpose (PGPA s26), including to avoid conflicts of interest, and to reveal and manage conflicts if they arise.
- III. Duty in relation to the use of position
This duty requires Directors to not improperly use their position to gain an advantage for themselves or someone else, or to the detriment of NAIF (PGPA s27).
- IV. Duty in relation to the use of information
This duty requires Directors to not improperly use the information they gain during their Director duties to gain an advantage for themselves or someone else, or to the detriment of NAIF (PGPA s28).

V. Duty to disclose interests

This duty requires Directors to disclose the details of material interests. The concept of materiality is anything that has the capacity to impact on the ability of the Director to honestly discharge their duties to NAIF (PGPA s29.)

In addition to the above, NAIF requires its Directors to;

- Prepare for, attend and participate at Board meetings and, where relevant, Committee meetings.
- Perform with the expertise, competence and integrity required by the Board.
- Communicate openly within the Board and with the Executive Management Group.
- Acquire and develop general knowledge of NAIF, its business and regulatory environment.
- Comply with their obligations under relevant law, including the NAIF Act and the PGPA Act.
- Comply with their obligations under applicable NAIF policies as listed in Appendix (1) and updated from time to time.
- Working with management, represent NAIF at external meetings or functions and advocate for and on behalf of NAIF where appropriate.

1.4 Role of the Chair

The Chair acts as an important link between the Board and the organisation's management via the CEO.

The Chair is responsible for leadership of the Board including:

- facilitating proper information flow to the Board;
- facilitating the effective functioning of the Board including managing the conduct, frequency and length of board meetings;
- communicating the views of the Board, in conjunction with the CEO, to the organisation's security holders, broader stakeholders and to the public.

In performing his/her role, the Chair's responsibilities also include:

- In consultation with the CEO and the Company Secretary:
 - setting the agenda for the matters to be considered by the Board.
 - seeking to ensure that the information provided to the Board is relevant, accurate, timely and sufficient to keep the Board appropriately informed of the performance of the NAIF and of any developments that may have a material impact on NAIF or its performance;
 - seeking to ensure that communications with stakeholders and the public are accurate and effective.
- Seeking to ensure that the Board has the opportunity to maintain adequate understanding of the organisation's financial position, strategic performance, operations and affairs generally and the opportunities and challenges facing the organisation.
- Facilitating open and constructive communications amongst Board members and the Executive Management Group and encouraging their contribution to Board deliberations.
- Overseeing and facilitating Board, Committee and Board member evaluation reviews.
- Liaising and interfacing with the CEO as the primary contact between the Board and management.
- Liaising with and counselling, as appropriate, Board members.

The Chair of the Board is appointed by the Minister.

1.5 Role of the CEO

The CEO is the head of the Executive Management Group (EMG) which consists of senior NAIF executives.

The CEO leads the EMG in managing the day to day operations of NAIF, its people and resources. The CEO implements the strategy approved by the Board and ensures that the organisation's structure and processes meet the strategic and cultural needs of the organisation.

Under Part 6, Section 28 of the NAIF Act, the CEO is responsible for the day to day administration of the Facility, and has the power to do all things necessary or convenient to be done for or in connection with the performance of his or her functions. Broadly, the CEO is responsible for;

- Managing NAIF in accordance with the strategy, risk appetite, directions and policies approved by the Board.
- Instilling in NAIF a culture of trust, honesty and integrity in relationships with those stakeholders both internal and external to NAIF.
- Implementing the strategy set by the Board and manage NAIF's activities in accordance with the Board's risk appetite and policy objectives.
- Being ultimately responsible to the Board for the performance of NAIF.
- Selecting, appointing and removing employees of NAIF, subject to employee costs being within approved operating cost budgets.
- Delegating responsibilities and authorities to appropriate employees of NAIF.
- Complying with all directions provided by the Board regarding the CEO's functions.

1.6 Role of the Company Secretary

The Company Secretary plays an important role in supporting the effectiveness of the Board and its committees.

In accordance with the *Corporate Governance Principals and Recommendations 3e* (2014) the role of the Company Secretary includes;

- Advising the Board and its Committees on governance matters.
- Monitoring that Board and Committee policy and procedures are followed.
- Coordinating the timely completion and despatch of Board and Committee papers.
- Ensuring that the business at Board and Committee meetings is accurately captured in the minutes.
- Helping to organise and facilitate the induction and professional development of Directors.

Each Director should be able to communicate directly with the Company Secretary and vice versa.

2. Key Board Functions

2.1 The Board and Strategy

Together with management, the Board will develop the strategic direction, objectives and goals of NAIF, including approving the Corporate Plan and Annual Corporate Key Performance Indicators (KPI's). The Corporate Plan must be prepared by NAIF in accordance with the requirements of the PGPA Act and the *Public Governance, Performance and Accountability Rule 2014* (Cth).

2.2 The Board and the CEO

The Board has absolute authority for selecting, appointing and, in specific circumstances set out in the NAIF Act, remove the CEO.

To assist the CEO in discharging their duties, the Board will;

- From time to time, give written directions to the CEO about the performance of the CEO's role and the CEO must comply with those Directions.
- Define the powers of the CEO to conduct the day-to-day operations of NAIF, consistent with the provisions of the NAIF Act.
- Approve decisions which are beyond the CEO's powers and, where appropriate, refer matters to the Commonwealth, State and Territory Governments as required by the NAIF Act.
- Assess the performance of the CEO and review and approve the executive remuneration policy framework.

2.3 Monitoring

Performance monitoring is an essential Board responsibility that aims to achieve two objectives:

- a) Ensuring that performance is consistent with NAIF's approved strategic directions.
- b) Ensuring that NAIF's Directors and Executive are complying with their legal obligations.

To assist in performance monitoring the NAIF Board will receive;

- a) at least twice a year reviews of the Corporate Plan, focusing on performance against Key Performance Indications (KPI's);
- b) a monthly review of the pipeline;
- c) a monthly review of the portfolio dashboard;
- d) quarterly reports including, Human Resources, Compliance and Risk Management;
- e) guidance on an annual risk appetite statement; and
- f) monthly performance reports against operating cost and revenue budgets.

2.4 Risk Management

The Board has adopted a proactive approach to risk management within the parameters of the Board risk appetite statement. In doing so, the Board will identify risks and mitigation strategies with all decisions and implement processes to enable the Board to identify, monitor and arrange management of risks as they relate to NAIF.

In discharging its risk management obligations, the Board will;

- Review and approve NAIF's Risk Management Framework, including the credit risk strategy and credit risk policies of NAIF.
- Oversee the audit, risk management, internal control and compliance systems in place to support NAIF's Risk Management Framework and monitor their effectiveness and implementation, including through reports from the Board Audit and Risk Committee.
- Maintain corporate governance practices for NAIF's responsible and ethical compliance with relevant regulatory requirements and governance standards.

2.5 Compliance

The Board of NAIF has a commitment to a strong compliance program. The Board recognises that compliance with legislation is mandatory and they will ensure the implementation of a Compliance Framework to ensure organisational compliance. A quarterly compliance report will be provided to the Board for their consideration.

2.6 Policy Framework

The Board has responsibility for reviewing and approving all organisational policies.

2.7 Networking

Developing business networks, and working to promote the reputation of NAIF, are important ways for the Directors to add value to the work of NAIF. Directors act as ambassadors for NAIF and are expected to develop and maintain connections for the benefit of NAIF. These network connections may include Ministers, Government Agencies, Local Members, representative organisations and various businesses.

The Board will make every effort to implement a conscious program of networking and linkage, working closely with the Executive Management Group to promote NAIF and to further its interests.

2.8 Stakeholder Communications

The Board of Directors has a key role to play in keeping key stakeholders informed of strategic directions and organisational performance. The Chairman working with the CEO will have primary responsibility for any communications with the relevant Minister. Management will work with Directors in terms of co-ordinating stakeholder communications.

2.9 Decision -making

The Board has responsibility for making formal investment decisions as defined in the *Northern Australia Infrastructure Facility Investment Mandate Direction 2018* (Cth). In doing so;

- Directors will approach all Board deliberations in an independent, objective, impartial and unbiased manner.
- Directors will not do anything, whether in their capacity as a NAIF Director or otherwise, to harm, or which has the potential to harm, NAIF's reputation and brand.
- Without limitation, Directors must not make public comment (on social media or otherwise) that may lead a reasonable person to conclude that they cannot serve in their capacity as a NAIF Director impartially and professionally.

Although Board members may hold directorships or other roles with other organisations, they must ensure these roles do not prejudicially affect the proper performance of their duties and obligations as Directors of NAIF. This includes compliance with all relevant NAIF policies such as NAIF's Conflict of Interest Policy and Confidentiality Policy.

3. Board Practices

3.1 Board meetings

The NAIF Act (s22-27) contains requirements regarding the convening of Board meetings, quorums for Board meetings, voting and decision making by the Board and records of Board decisions. Each member of the Board, the CEO and the Company Secretary should ensure they are familiar with these requirements.

3.2 Board meeting agenda

The Company Secretary will actively work with both the CEO and the Chair to set Board agendas. In doing so, information may be drawn from the Board calendar and incorporated as planned.

Directors may request an item be added to an agenda at any time ahead of the Board meeting, but not less than 10 days. Late agenda items will be tabled at the discretion of the Chair.

3.3 Board papers

Board papers will be uploaded to a board papers review platform, which may be in place from time to time, (currently Diligent) Diligent and will be available to Board members within seven (7) days of a scheduled Board meeting. Where out of session or emergent Board meetings are called papers will be provided at the earliest opportunity.

Minutes will be settled with the Chair within 48 hours of the meeting and will be distributed with the following Board meetings papers. Minutes are taken as draft until they are ratified by the Board.

3.4 Board calendar

An annual Board calendar, including dates, times and locations of meetings will be agreed in the October of the preceding year. In addition to the Board calendar the Board will also set a Board work plan indicating the matters they wish to address through the year.

3.5 Committees

The Board has established the Board Audit and Risk Committee as a committee of the Board pursuant to s45 of the PGPA Act.

Additionally, the Board has established a Performance and Remuneration Committee.

The Board may establish other such Committees as it considers necessary for the purpose of overseeing its functions. Each Committee will have a Chair and a clearly defined charter approved by the Board setting out its structure, functions, duties and responsibilities. Committee membership will be subject to rotation as determined by the Board. Committees do not have any decision-making power though may make recommendations to the Board from time to time.

4. Board Effectiveness

4.1 Directors and Officers Insurance

Directors are currently covered under ComCare Directors and Officer's insurance.

Where a claim for loss is made against a Director during their service they will be indemnified for damages and judgements, defence costs incurred and legal costs awarded, so long as the Directors adhere to their duties under the PGPA.

4.2 Board evaluation

The NAIF Board recognises that there can be several benefits arising out of an evaluation of its own performance, including:

- Team building among Directors
- Clarifying individual as well as collective roles in the NAIF governance system
- Improving the effectiveness of Board meetings
- Improving the working relationships between the Board and the EMG.
- Identifying areas for improving statutory and other reporting requirements.

The NAIF Board will undertake a review of performance annually in June each year. It may, from time to time, engage an appropriately qualified person to evaluate Board performance or alternatively may elect to do an internal self-evaluation.

4.3 Director remuneration

The remuneration of Board members is determined by the Remuneration Tribunal. If the Remuneration Tribunal has not determined the remuneration of a member, that member's remuneration will be determined by the Minister responsible for the NAIF at the time. The Remuneration Tribunal is an independent statutory body that handles the remuneration of key Commonwealth offices and is governed by the *Remuneration Tribunal Act 1973* (Cth).

4.4 Director selection

Members of the Board (including the Chair) are appointed by the Minister under section 15 of the NAIF Act.

Members are appointed on a part time basis and hold office for a period not exceeding 3 years.

According to the Act, a person is not eligible for appointment as a member unless the person has experience or expertise in one or more of the following fields;

- a. banking and finance;
- b. private equity or investment by way of lending or provision of credit;
- c. economics;
- d. infrastructure planning and financing;
- e. engineering;
- f. government funding programs or bodies;
- g. financial accounting or auditing;
- h. law.

4.5 Director Induction

The NAIF Board acknowledges that individual performance as a Director is firmly linked to induction into the duties of the position and the work of NAIF. As a minimum standard, the induction package and process for NAIF Directors will address:

- Corporate governance
- Board workings
- Types and frequency of Board reports
- NAIF organisational structure
- NAIF's Corporate Plan and related Risk Management Plan
- NAIF's Operational Plan and key KPI's
- NAIF's culture and values
- Stakeholder engagement plan
- Organisational Code of Conduct
- Policy and procedures relevant to Directors.