



Environment Protection Authority

Board Charter

April 2025



A vertical decorative strip on the left side of the page featuring intricate Aboriginal patterns. These include concentric circles, wavy lines, and geometric shapes in various shades of blue and grey, characteristic of traditional Indigenous art.

Acknowledgement of Country

The NSW Environment Protection Authority acknowledges the Traditional Custodians of the land on which we live and work, honours the ancestors and the Elders both past and present and extends that respect to all Aboriginal people.

We recognise Aboriginal peoples' spiritual and cultural connection and inherent right to protect the land, waters, skies and natural resources of NSW. This connection goes deep and has since the Dreaming.

We also acknowledge our Aboriginal and Torres Strait Islander employees who are an integral part of our diverse workforce and recognise the knowledge embedded forever in Aboriginal and Torres Strait Islander custodianship of Country and culture.

Aboriginal artwork by Worimi artist Gerard Black

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1 Principles

The NSW Environment Protection Authority (EPA) is a statutory body representing the Crown and is the primary environmental regulator for NSW. Section 6 (1)(a) and (b) of the *Protection of the Environment Administration Act 1991* outline the objectives of the EPA:

- to protect, restore and enhance the quality of the environment in NSW, having regard to the need to maintain ecologically sustainable development, and
- to reduce the risks to human health and prevent the degradation of the environment.

The principles underlying the Board's charter and governance of the EPA are:

- independence
- substantive focus and strategy driven
- integrity of regulatory decision making
- transparency and accountability
- effective stewardship for the environment
- importance of building confidence of the public, industry and government in the EPA's decision making.

The Board of the EPA has adopted this EPA Board Charter to meet these principles and to provide guidance relating to:

- the functions of the Board,
- the role of Board members, the Chairperson of the Board and the Chief Executive Officer (CEO), and
- other Board governance issues.

This Charter builds on the following Acts and the regulations made under those Acts:

- [*Protection of the Environment Administration Act 1991*](#) (POEA Act)
- [*Protection of the Environment Operations Act 1997*](#) (PEO Act).

In the event of any inconsistency, the provisions of the above legislation prevail over this Charter.

In this Charter, a reference to the Minister is a reference to the NSW Minister for Climate Change, Energy, the Environment and Heritage.

2 Functions of the Board

The EPA has an independent, expertise-based, governing Board that oversees and monitors the EPA. The Board is not subject to the control and direction of the Minister in the exercise of any of its functions.

Section 16 of the POEA Act sets out the Board's functions as follows:

- determine the policies and long-term strategic plans of the EPA, including policies and plans relating to organisational governance and risk management
- oversee the effective, efficient and economical management of the EPA
- develop, and make available for public information, guidelines relating to the institution of criminal and related proceedings
- determine whether the EPA should institute proceedings for serious environment protection offences
- advise the Minister on any matter relating to the protection of the environment (at the request of the Minister or on its own initiative)
- provide an annual statement to the Minister that addresses the regulatory assurance matters set out in section 16 (3) (the Board's Regulatory Assurance Statement).

Other additional statutory functions of the Board are to:

- receive reports from the EPA on any failure of the EPA to comply with its requirement to review environment protection licences every five years set out in section 78 (3) of the POEO Act
- approve the EPA granting an exemption to any person or class or persons from provisions of the POEO Act or regulations under section 284 (2)(b)(iii) of the POEO Act.

The Board fulfils its governance responsibilities under the leadership of the Chairperson working collaboratively with the CEO to achieve the EPA's statutory objectives and its strategic plans, using the EPA's Regulatory Framework and Regulatory Policy.

3 Ministerial directions

The Board (including the Chairperson) is not subject to the control and direction of the Minister in the exercise of any of its functions (POEA Act section 16(2)).

The Minister may give the EPA directions relating to the EPA's functions in consultation with the EPA, if satisfied this is necessary in the public interest (POEA Act section 13(1)). Directions must be of a general nature only (unless the EPA agrees otherwise) and must not relate to a specific matter being considered or determined by the EPA.

The Minister must not give the EPA directions in relation to:

- a. any report or recommendation made to the Minister
- b. a state of the environment report (other than directions for including extra information in the report)
- c. any decision to institute criminal or related proceedings.

4 Board composition, statutory requirements and obligations

The Board consists of:

- the Chairperson
 - the CEO
 - 3 – 5 part-time members appointed by the Governor on the recommendation of the Minister (POEA Act section 15(2)).
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4.1 Chairperson

Under section 18 of the POEA Act, the Chairperson is appointed by the Governor on a part-time basis. The Chairperson holds office for a term of up to five years and may be reappointed.

The Chairperson is the presiding member of the Board. The Chairperson has a deliberative vote, and the casting vote (in the event of a voting deadlock).

4.2 CEO

The CEO is appointed by the Chairperson of the Board, who exercises the government's employer functions in relation to the CEO. In exercising the function of appointing or terminating the CEO, the Chairperson is to act in consultation with the Minister (*Government Sector Employment Act 2013*, Part 3 of Schedule 1).

The CEO is a non-voting member of the Board (POEA Act section 14).

The CEO role is concerned with the management of the EPA and this role is distinct from the role and responsibilities of the Board. The CEO manages and controls the affairs of the EPA, subject to the policies and decisions of the Board, and any directions of the Minister under the POEA Act (POEA Act section 14A).

Actions carried out by the CEO in the name of, or behalf of, the EPA are taken to have been done by the EPA (POEA Act section 14A).

4.3 Board members

As members of a governance Board, individual Board members contribute to Board deliberations and oversight of the effective, efficient and economical management of the EPA. Board members must ensure they:

- comply with this Charter and the Ethical Framework for the public sector set out in the *Government Sector Employment Act 2013*
- discharge their duties generally according to the EPA Code of Ethics and Conduct for NSW Government Sector Employees. However, Board members are not required to:
 - make an annual declaration via the EPA ethics portal that they have read and understood their obligations under the Code

- annually declare any conflicts of interests through the EPA ethics portal
- gain approval before performing paid or unpaid work elsewhere.
- act with required care and diligence, making reasonable enquiries to ensure the EPA is operating efficiently, effectively and economically
- attend Board meetings and participate in discussion and decisions and consider matters out of session (where required)
- carry out diligent analysis of all proposals placed before the Board
- serve on Board committees as required
- comply with requirements relating to the disclosure of actual or potential conflicts of interests
- respect the privacy and confidentiality of information received during participation on the Board, including maintaining the confidentiality of cabinet documents and cabinet information
- meet their statutory obligations including as disclosure officers under the *Public Interest Disclosures Act 2022*.

Under the *Public Interest Disclosures Act 2022* (PID Act), members are ‘disclosure officers’, as members of an agency’s unelected governing body (s 18). They can receive voluntary public interest disclosures from EPA staff on behalf of the EPA and must deal with them according to the EPA’s Public Interest Disclosures Policy.

This Policy includes a list of disclosure officers, including EPA Board members, and their contact details. Members must be aware of their obligations as disclosure officers, including knowing how to identify a public interest disclosure, and the EPA’s obligations when one is made.

4.4 Acting Chairperson and deputy members

Section 18A of the POEA Act invests the Minister with the power to appoint an Acting Chairperson – such as during the illness or absence of the Chairperson or during a vacancy in the office of the Chairperson.

Clause 3 of Schedule 1 of the POEA Act invests the Minister with the power to appoint deputies of an appointed member.

5 Minister’s interaction with the Board

The Minister has portfolio responsibility for the EPA and is responsible for administering the POEO Act, the POEA Act and other environment protection legislation. Although the Board is not subject to the control and direction of the Minister, the Board and the Minister interact as follows:

- the Board provides the Minister with an annual regulatory assurance statement and advice on environment protection issues
- the Board meets with the Minister from time to time and generally one or two times per year including to discuss issues raised in the Board’s Regulatory Assurance Statement
- the Minister approves Environmental Counsel engaged by the EPA to provide advice to the Board.

6 Roles

The roles of the Chairperson and CEO and how they work together are critical to ensuring effective and efficient governance and execution of the EPA's strategic plans and Board endorsed policies.

6.1 Chairperson

The Chairperson will:

- exercise the government's employer functions in relation to the CEO and review the CEO's performance annually
 - establish and maintain an effective working relationship with the CEO to allow for proper information flow to the Board
 - act as an important link between the Board and EPA Executive but without preventing direct access of fellow Board members
 - meet with the Minister as appropriate, collaborate and maintain open relationships to speed up timely information transfer and responses to issues.
 - provide leadership and strategic direction to the Board
 - enable the effective functioning of the Board
 - lead the Board in deciding what (if any) committees are needed
 - lead an annual process of Board and Board member evaluation
 - represent the EPA to external stakeholders and organisations, ensuring that the Board and CEO are appropriately informed of such representation
 - review and approve the EPA's annual financial statements
 - communicate the views of the Board to the EPA's stakeholders including the Minister and the Department of Climate Change, Energy, the Environment and Water (DCCEEW). This includes annual reporting by the Board through the Regulatory Assurance Statement
 - perform other functions or tasks requested by the Board.
-

6.2 CEO

The CEO will:

- implement the policies determined by the Board and the long-term strategic plans of the EPA, including policies and plans relating to organisational governance and risk management
- promote the vision of the EPA and live its values
- consult and regularly meet with the Minister
- collaborate and maintain open relationships to speed up timely and accurate information transfer and responses to issues
- foster effective engagement with the Board, government and key stakeholders

- meet regularly with the Chairperson to build an effective relationship and report on delivery and performance on key priorities in the strategic plan, governance, and emerging risks
- provide advice to the Board on key policy objectives and initiatives for environmental protection and regulatory reform
- provide timely, expert, and authoritative advice to the Minister, Board, NSW Government central agencies and agencies in DCCEE
- agree with the Chairperson on the support to be provided by the EPA Executive to the Board in fulfilling statutory functions and provide reports on regulatory activity and compliance with Board-agreed EPA policies and frameworks
- agree on Board agendas with the Chairperson and provide reports, budgets and financial statements on a timely basis to the Chairperson and to the Board.
- keep the Chairperson and the Board informed of material developments concerning the EPA's operations
- manage the strategic risks identified by the Board and contained in the EPA's Enterprise Risk Framework and all operational and entity risks that could have a material impact on the EPA
- be the EPA's accountable authority, head of the EPA staff agency, accountable for the operational performance of the EPA and the way the EPA exercises its powers and functions under NSW environmental legislation.

6.3 All Board members

All Board members including the Chairperson will:

- promote the vision of the EPA and live its values
- ensure that they respect the role of the CEO and Executive team who have responsibility for managing the day-to-day operations of the EPA
- ensure they clearly understand their governance role and the importance of respecting the role of management
- ensure that the CEO is informed of any formal stakeholder meetings that take place directly between a stakeholder and a Board member, and provide feedback as appropriate from EPA stakeholders including views expressed about the EPA
- use their networks where reasonably requested by the CEO to further the interests of the EPA
- respect the EPA's processes for making regulatory decisions (provided EPA Board endorsed regulatory frameworks are followed)
- participate as reasonably required in Board processes, Board/Executive workshops and Board field trips
- contribute their individual expertise informally as an unpaid 'thought partner' when requested by the CEO or an Executive team member to help them or their teams deliberate an issue

7 How the Board and the CEO work together

The Board and the CEO (and through the CEO, the EPA Executive) work together in service of the EPA's objectives.

When overseeing the effective, efficient and economical management of the EPA, the CEO and the EPA Executive recognise that the Board will test and seek assurance about the EPA's evidence-based decision-making that the public would reasonably expect.

When acting as a sounding board for the CEO and Executive, the Board will consider, guide and advise on challenges and emerging responses, not solve them.

The CEO and Executive help the Board by engaging early and minimising surprises and by providing good context and simple and clear papers.

The Board helps by taking the complex and making it simple, helping to connect disparate issues, and providing clear feedback about what is working best and what needs improvement, while being aware of the context in which the EPA makes decisions. Above all else, the Board actively lives the mindset of "what can I, and we as a Board, do to help you succeed?" and actively supports the CEO and the Executive as they address issues and solve problems.

The Board contributes to stakeholder relations by drawing on their external connections where appropriate to foster the EPA's purpose and to share relevant feedback from those connections.

Board members contribute to the EPA's culture through a meaningful presence at key EPA and staff events.

These roles are supported by the CEO and Executive making a clear request in the areas of greatest need.

Consistency and follow-through, and the structures that support them, are essential to forward momentum and to successfully living this shared commitment.

8 Board meetings

Provisions relating to Board meetings are set out in Schedule 1 of the POEA Act. Deliberations on serious environmental offences will be made at Board meetings and be recorded as set out in the EPA Prosecution Guidelines.

8.1 Meeting agendas and minutes

An agenda for each Board meeting will be agreed with the Chairperson, and papers circulated to Board members at least five working days before the meeting.¹

Final minutes are to be agreed by the Board at the subsequent Board meeting. Minutes of Board meetings are to be treated confidentially.²

A register of Actions and Resolutions is to be kept, to track decisions and manage the progress of actions.

8.2 Board papers

Board papers should be succinct, and evidence based. Papers dealing with regulatory issues should show links to the Strategic Plan and apply the Regulatory Framework.

Papers are to be distributed no later than the Friday before a scheduled meeting.

8.3 Procedure for decision making

A quorum (minimum number of people) for a Board meeting is the Chairperson plus two members, apart from the CEO (who is a non-voting member of the Board) (POEA Act, Schedule 1, clause 11).

A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board. In the event of a voting deadlock, the Chairperson will work with Board members to come to an agreement. Where an agreement cannot be reached the Chairperson has a deliberative or casting vote.

From time to time, the Chairperson may delegate another Board member as alternate Chairperson to conduct Board business procedures. As an alternate Chairperson is not a formal appointment, in the absence of the Chairperson the Board cannot form a decision-making quorum at such times. However, an acting Chairperson appointed by the Minister does cover the role of Chairperson in forming a quorum.

¹ Except in the instance of an urgent issue, or in cases of an extraordinary meeting.

² The *Government Information (Public Access) Act 2009* will, nevertheless, be applicable.

8.4 Attendance at meetings

Board members who are unable to attend Board meetings are to give an apology to the Chairperson in advance and the apology will be recorded in the minutes of the meeting.

Where a Board member will be absent from three consecutive Board meetings (not including out of session meetings), the consent of the Board will be required. The absent member must ask for the Board's consent before their absence so that the Minister can appoint a deputy.

8.5 Board calendar

The CEO, in consultation with the Chairperson, will maintain an annual Board calendar listing the key activities in which the Board will need to engage to fulfil its statutory functions.

9 Board committees

The Board may create Board committees. Committees may be created as standing committees, or as flexible (ad hoc) committees with a specific life span, based on a specific area of focus.

Committee members may or may not be members of the Board. Committee memberships may also be controlled by other policy or statutory instruments³. Any Board member may attend meetings of a committee, whether or not they are a committee member.

Each committee is to have a charter. The charter and procedure of a committee is to be determined by the Board, or the committee itself (subject to any Board determination).

All committee decisions and minutes of committee meetings are to be tabled at the next Board meeting.

Membership and attendance at committee meetings will be included in the annual evaluation of the Board and of Board members.

³ For example, Treasury Policy sets independence and other requirements on the Chairperson and members of the Audit and Risk Committee

10 Conflicts of interest

10.1 Disclosing interests

Statutory requirements

The POEA Act (Schedule 1, clause 7) explicitly requires that members must disclose certain conflicts of interest:

- matters where a Board member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a Board meeting, and the interest appears to raise a conflict with the proper performance of the member's duties in relation to consideration of the matter
- matters relating to the institution of criminal or related proceedings and in which a Board member has any personal or financial interest.

Other requirements

Members will comply with the Conflicts of Interest provisions in the EPA Code of Ethics and Conduct for NSW Government Sector Employees (except as provided in clause 4.3 above).

Members must promptly disclose to the Board each of the following.

- Any material personal or corporate interest in a matter that relates to the affairs of the EPA.
- Any other interest which the member believes may create a conflict of interest or the perception of a conflict of interest.

Issued in July 2015, the Australian Accounting Standards Board 'Related Party Disclosures' (AASB 124) defines a set of disclosures required of an organisation's key management personnel. The EPA is required to comply with AASB 124 and NSW Treasury TPG23-16 Related Party Disclosures. EPA Board members are regarded as key management personnel.

10.2 Managing conflicts of interest

Under the POEA Act (Schedule 1 clause 7), where a conflict happens, the Board member must not, unless the Minister or the Board otherwise determines:

- be present during any deliberation of the Board with respect to the matter, or
- take part in any decision of the Board with respect to the matter.

Further, the Board member must not be present during deliberation, nor take part in any decision of the Board in relation to a determination about the member's involvement in the matter.

Additionally, members will do the following to manage conflicts of interest:

- Before attending their first Board meeting and annually thereafter, complete a private interest declaration and undertaking using the Board approved template and update this whenever there is a relevant change in circumstances.
- Provide advance notice to the Chairperson and the CEO when they will be speaking at a conference or other event where issues related to the EPA, including sectors it regulates, will be

discussed, or where they will be publicly commenting on an issue related to the EPA in a publication or through other public means.

- Where members participate in such events or publicly comment on issues related to the EPA they will:
 - clarify they are not speaking on behalf of and do not represent the views of the Board or the EPA,
 - not discuss current EPA investigations or matters before the courts, or new strategies, policies or programs that the EPA is developing where those strategies, policies and programs have not been made public
 - not compromise the role or independence of the Board
 - not make comments that adversely reflect on the EPA's public reputation.
 - Where a member, or a business or entity associated with a member, intends to write to the EPA about a matter or make a submission to the EPA or government regarding a matter the EPA is publicly consulting on, the member will provide a copy of the correspondence or submission to the Chairperson and CEO.
 - Not use their position on the Board to advantage themselves, relatives or close personal relations.
 - Ensure that their business, its colleagues and clients do not use the member's position on the Board to influence EPA processes and decisions
 - Ensure that they do not use any information received as a member for personal or professional purposes or advantage.
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10.3 Conflicts pertaining to the Chairperson

As Schedule 1, clause 11 of the POEA Act requires the Chairperson to constitute a quorum (see clause 4.1 above), the Board will be unable to make determinations on issues in circumstances where a potential or actual conflict pertains to the Chairperson. In such circumstances, the appointment of a temporary Acting Chairperson by the Minister may be required (see clauses 4.4 and 8.3 above).

10.4 Records of disclosures

Under the POEA Act (Schedule 1, clause 7(5)), particulars of any disclosure made under clause 7 must be recorded by the Board. This record is to be open for inspection by any person. The register of Board disclosures is to be administered by the Board Secretariat.

As well as the statutory requirements, each Board meeting is to contain "Disclosures of Interest" as a standing agenda item. During that item, the Chairperson is to call on Board members to declare any potential, perceived or actual conflicts of interest, and interests declared by Board members are to be recorded in the minutes of the Board meeting.

Moreover, the absence of any Board member from decisions or discussion due to a declared conflict of interest is to be recorded in the minutes of the Board meeting.

Extra record keeping processes apply regarding AASB 124. Such records are not ordinarily open for inspection.

Private interest declarations and undertakings will be provided to the Chairperson and kept in a confidential register maintained by the Office of the CEO. The register is not a public document.

11 Board effectiveness

11.1 Board performance evaluation

The Board will undergo an annual performance evaluation. The evaluation may include the performance of the Board and its committees and individual performance of Board members. The Chairperson will discuss and agree the extent and method of review with the Board each year, and the EPA will engage an external facilitator to help with the Board's performance review at least every third year.

11.2 New Board members

All new Board members will participate in an induction program co-ordinated by the EPA and involving the Chairperson to help them in fulfilling their duties and responsibilities.

12 Review of this Charter

The Board will review this Charter every two years to ensure it remains fully consistent with the EPA's objectives and responsibilities and up to date with developments within the EPA and corporate governance in general.

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