



Board Governance Charter

Contents

| | | |
|------------|--|-----------|
| 1.0 | Introduction | 4 |
| 2.0 | SV context for governance | 4 |
| 2.1 | Nature of SV | 4 |
| 2.2 | Key governing documents | 4 |
| 2.3 | Legislative objectives | 5 |
| 2.4 | Powers | 5 |
| 2.5 | Vision and strategic priorities | 5 |
| 3.0 | Key relationships and interfaces | 6 |
| 3.1 | SV relationships | 6 |
| 3.2 | Statutory obligations | 6 |
| 3.3 | Role of the Minister | 6 |
| 3.4 | Role of DELWP | 7 |
| 4.0 | SV roles and accountabilities | 9 |
| 4.1 | The role of the Board | 9 |
| 4.2 | Board accountabilities and retained authorities: | 10 |
| 4.3 | The role and accountabilities of the Chairperson | 13 |
| 4.4 | The role and accountabilities of the Chief Executive Officer | 13 |
| 4.5 | The role and accountabilities of the Chief Financial Officer | 15 |
| 4.6 | The role and accountabilities of the Board Secretary and General Counsel | 15 |
| 5.0 | Board committees | 16 |
| 6.0 | Board conduct | 16 |
| 7.0 | Board policies | 17 |
| 7.1 | Conflicts of interest | 17 |
| 7.2 | Gifts, benefits and hospitality | 18 |
| 7.3 | Meetings and decision making | 19 |
| 7.4 | Dispute resolution | 20 |
| 7.5 | Performance assessment | 20 |
| 8.0 | Other important information for Board members | 21 |
| 8.1 | Directors and Officers indemnity | 21 |
| 8.2 | Executive and staff employment power | 21 |
| 8.3 | Stakeholder engagement | 21 |

Document Change Control History

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|-------------|--------------|-------------|---|
| 1.0 | 24 Aug 2017 | SV Board | Document revised to ensure succinct summary of the Board's role: additional information moved to operating manual |
| 1.1 | 29 Oct 2020 | Board | Various amendments from Board effectiveness review refer Board papers |

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|-----|-------------|-------|--|
| 1.2 | 25 Mar 2021 | Board | Add “climate” in section 7.3; add “lobbyists” in section 8.3; amendments resulting from Board effectiveness review |
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1.0 Introduction

The Sustainability Victoria Board (**Board**) is the governing body of members, appointed by the Minister for Energy, Environment and Climate Change (**Minister**)¹, accountable to the Minister for the exercise of Sustainability Victoria's (**SV**) functions².

The Board must establish and implement effective governance practices: to promote responsible decision-making; to promote public sector values³; and to enhance performance and the delivery of its strategies and outcomes. The Board will monitor those practices to ensure that SV exercises its functions effectively, and according to the laws, regulations and government policies (**Governance Framework**) which bind SV.

This Board Governance Charter provides an overview of:

- a) SV context for governance;
- b) Key external roles and interfaces;
- c) Key internal roles and accountabilities of the Board and Chief Executive Officer of SV; and
- d) Key policies applicable to the Board.

This Board Governance Charter is to be read in conjunction with the Corporate Governance Operating Manual which provides the detail of Board policies and accountability.

2.0 SV context for governance

2.1 Nature of SV

SV is a body corporate⁴ with perpetual succession⁵; is capable of acquiring, holding and disposing of property⁶; may sue and be sued in its corporate name⁷; has a common seal⁸; and subject to the *Sustainability Victoria Act 2005* (**SV Act**), may do and suffer all acts and things that a body corporate may by law do and suffer⁹.

2.2 Key governing documents

- 2.2.1 SV Act;
- 2.2.2 any directions, guidelines and/or statements of obligation or expectation issued by the Minister;
- 2.2.3 *Environment Protection Act 1970* (**EP Act**);
- 2.2.4 *Public Administration Act 2004* (**PAA**);
- 2.2.5 Victorian Public Entity Directors Code of Conduct 2006;
- 2.2.6 *Financial Management Act 1994* (**FMA**); and
- 2.2.7 Standing Directions of the Minister for Finance 2016 under the FMA (**Standing Directions**).

¹ Section 9(2) SV Act

² Section 85(1) PAA

³ The public sector values are: integrity, impartiality, accountability, respect, responsiveness, human rights, and leadership

⁴ Section 5(1) SV Act

⁵ Section 5(2)(a) SV Act

⁶ Section 5(2)(b) SV Act

⁷ Section 5(2)(c) SV Act

⁸ Section 5(2)(d) SV Act

⁹ Section 5(2)(e) SV Act

2.3 Legislative objectives

SV's objective is to facilitate and promote environmental sustainability in the use of resources¹⁰. SV works with government, business and the community to fulfil this objective.

SV exercises its 21 functions to fulfil this objective. Those functions can be summarised in the following ways:

- a) to inform and educate;
- b) to change attitudes and behaviours;
- c) to facilitate action;
- d) to plan and implement;
- e) to contribute to policy development;
- f) to provide advice;
- g) to measure impacts; and
- h) to monitor research¹¹.

2.4 Powers

SV may do all things that are necessary or convenient to enable it to carry out its functions and achieve its objective¹² including applying for, obtaining and holding intellectual property rights, including patents, copyrights, trademarks and registered designs¹³.

2.5 Vision and strategic priorities

SV's vision is for a sustainable, thriving Victoria. SV's focus is to enable Victorians to act on climate change and to use resources wisely¹⁴.

2.6 Funding

SV receives an allocation from the landfill levy. This is a proportion of the landfill levy that is paid to the Municipal and Industrial Landfill Levy Trust Account under section 70E of the EP Act.

In addition, SV receives project funding through the Expenditure Review Committee (**ERC**). Much of this funding is allocated from the Sustainability Fund, which is managed by the Department of Environment, Land, Water and Planning under section 70F of the EP Act.

¹⁰ Section 6 SV Act

¹¹ Section 7 SV Act

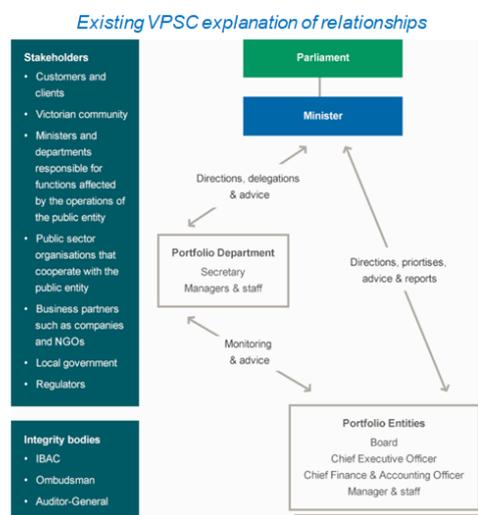
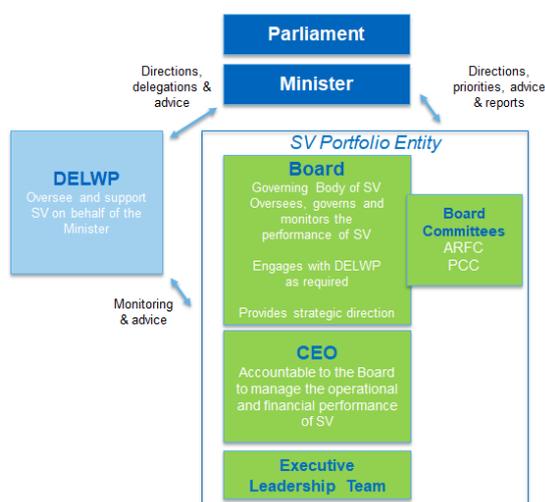
¹² Section 8(1) SV Act

¹³ Section 8(2) SV Act

¹⁴ SV strategic plan SV2020

3.0 Key relationships and interfaces

3.1 SV relationships



3.2 Statutory obligations

The Board is accountable to the Minister for the exercise of SV's functions¹⁵.

The Board's duty is to ensure that effective systems are in place to certify that SV complies with the general duties and obligations incumbent on all public entities in the state of Victoria¹⁶.

The Board and staff of SV are subject to the requirements of various legislation, regulations and codes of practice. Further detail on these is provided in the Corporate Governance Operating Manual ([link](#)).

Responsibilities and requirements under the legislation applicable to SV have been incorporated into the roles and accountabilities of the Board, the Chief Executive Officer and organisational policies and procedures. Further detail on these is provided in the Corporate Governance Operating Manual. The Board will periodically review these roles, responsibilities, policies and procedures to ensure they are being complied with and that they remain current and effective.

3.3 Role of the Minister

The Minister is accountable for establishing and maintaining proper accountabilities and controls to ensure that public entities spend money and exercise powers in a proper manner and in a way that advances the government's policy objectives.¹⁷

The Minister's role includes:

- appointing and removing members, including those nominated by the Minister administering the *Electricity Industry Act 2000*¹⁸;
- approving the appointment of the Chief Executive Officer¹⁹;
- issuing written directions which bind SV²⁰;
- approving SV's Business Plan²¹; and

¹⁵ Section 85(1) PAA

¹⁶ Section 2.2 and 5.1 Standing Directions

¹⁷ Section 85(2) PAA

¹⁸ Section 9(3)(a) SV Act

¹⁹ Section 15(1) SV Act

²⁰ Section 18 SV Act

²¹ Section 19 SV Act

- e) initiating reviews of the agency's management systems, structures and processes²².

The Minister is responsible for:

- a) presenting new policies related to SV matters to Cabinet;
- b) making amendments to the SV Act; and
- c) the administration of subordinate legislation under the SV Act.

The Minister is the primary link between SV and the Victorian Government Executive.

Relationship with the Minister

All meetings with the Minister will be supported with an agenda outlining the meeting purpose.

Where meetings relate to the responsibilities of other areas of government, such briefings will normally be provided after consultation with the area concerned. From time to time, briefings will be provided jointly however SV retains the right to brief the Minister separately and in-confidence.

The Chairperson and Chief Executive Officer meet with the Minister regularly.

The Executive Leadership Team of SV will be available to attend meetings to support the Minister, or when the Minister requests SV's support for meetings with key government stakeholders.

3.4 Role of DELWP

The Department of Environment, Land, Water and Planning (**DELWP**) is an extension of the Minister. DELWP is the Minister's primary source of strategic and policy advice for the portfolio and performs a functional role in supporting and overseeing SV on behalf of the Minister. DELWP:

- a) communicates with agencies regarding roles and responsibilities, government policies and procedures, reporting frameworks, and timelines to comply with government requirements;
- b) monitors the overall performance of agencies; and
- c) facilitates the overall quality of agencies' reporting to the Minister.

The Secretary of DELWP is responsible for:

- a) advising the Minister on matters relating to SV, including the discharge by SV of its responsibilities under the SV Act, the PAA and any other relevant Act; and
- b) working with, and providing guidance to a SV on matters relating to public administration and governance²³.

DELWP will be consulted during the preparation of briefings or when advising Ministers about significant issues in relation to SV. SV will (unless prohibited by law) provide the Secretary of DELWP with any information that he or she requires to comply with his/her obligations under section 13A of the PAA²⁴.

The Secretary of DELWP will approve the following:

- a) all cabinet submissions and Executive Council submissions;

²² Section 85(2)(iv) PAA

²³ Section 13A PAA

²⁴ Section 13A PAA

- b) any Budget and Expenditure Review Committee or budget related proposals; and
- c) any significant (matters leading to key government decisions) policy proposals.

The Chief Executive Officer maintains a relationship with the Secretary of the DELWP and ensures the Secretary of the DELWP is engaged, in accordance with the relationship management guidelines at item 3.5 of this Charter.

The Chief Executive Officer advises the Chairperson as soon as practicable of any critical discussions with the Secretary of the DELWP.

3.5 DELWP/SV Relationship Guidelines²⁵

The relationship between SV and DELWP will be conducted in accordance with the following five guidelines:

1. Engagement

Objective: DELWP and SV build and maintain productive working relationships led by dedicated senior executive relationship managers who set a positive tone. Communications with SV are more consistent and coherent.

2. Roles and responsibilities

Objective: The overall role and responsibilities of DELWP and SV are clear and well understood by both.

3. Good public administration and governance

Objective: The Secretary meets the legislated responsibility to assist SV on matters relating to finance, public administration and governance, the Minister is supported, and best practice public administration and governance advice, support and material is developed and provided to SV.

4. Strategy and planning

Objective: The role of SV is aligned with government's priorities and there is greater collaboration with the agency in policy making, delivery of programs and projects

5. Monitoring and reporting

Objective: The Secretary discharges obligations for the oversight and support of agencies and meets Ministerial expectations.

Further information regarding stakeholders with a relationship with SV, and their roles, can be found in section 10 of the Corporate Governance Operating Manual (link).

4.0 SV roles and accountabilities

4.1 The role of the Board

The SV Board is the governing body of members appointed by the Minister²⁶. The Board members are subject to the directors' obligations in the PAA²⁷ and are accountable to the Minister for the exercise of SV's functions²⁸. The Board's role is to ensure that SV effectively fulfils its functions and conducts its business in accordance with its Governance Framework²⁹.

The Board will act in accordance with its obligations and with good public sector governance practice, including but not limited to:

- a) the SV Act;
- b) the public sector values in section 7 of the PAA³⁰;
- c) the Directors' Code of Conduct³¹;
- d) section 79 of the PAA;
- e) government policy;
- f) any directions, guidelines and/or statements of obligation or expectation issued by the Minister;
- g) the requirement in section 81(1)(e) of the PAA for a code of conduct to be in place that is applicable to all board members;
- h) the public sector employment principles in section 8 of the PAA and related Standards; and
- i) all other laws and obligations that bind SV.

While performing its role, the Board must:

- make decisions in the public interest
- ensure that all of its actions and decisions are consistent with the agency's functions and powers
- act in accordance with its collective accountability to the Minister³²
- inform the Minister and Secretary of DELWP of all known major risks to the effective operation of the agency (including emerging risks) and of the systems that are in place to address those risks³³
- unless prohibited from doing so by law, provide the Minister³⁴ and DELWP³⁵ with any information about the agency and its operations

Board members should avoid participation in the day-to-day management of SV. That is the role of the Chief Executive Officer. Board members will communicate with (or seek information from) SV employees via the Chief Executive Officer, or with the consent of the Chief Executive Officer. Board members will obtain the Chairperson's consent before approaching the Chief Executive Officer or SV employees.

²⁶ Section 9(2) SV Act

²⁷ In particular, sections 79 to 85 of the PAA

²⁸ Section 85(1) PAA

²⁹ Section 81(1) PAA

³⁰ The public sector values are: integrity, impartiality, accountability, respect, responsiveness, human rights, and leadership

³¹ Issued by Victoria's Public Sector Commissioner pursuant to section 63 of the PAA

³² Section 85(1) PAA

³³ Section 81(1)(b) PAA

³⁴ Section 81(1)(b) PAA

³⁵ Section 13A(3) PAA

4.2 Board accountabilities and retained authorities:

4.2.1 Strategy and planning: ensure that government objectives and priorities, and relevant statutory purposes and functions, are furthered in a financially efficient, effective and economical way, which includes:

1. Develop, oversee and monitor:

- a) the strategic plan (at least three years) which sets out its strategic priorities and associated performance outcomes as well as objectives for building internal capabilities, in conjunction with the Executive Leadership Team³⁶; and
- b) effective stakeholder engagement and relationship management to support strategic objectives³⁷.

2. Approve:

- a) the strategic plan (updated periodically);
- b) any major changes agreed to the strategy; and
- c) the annual business plan, containing; the priorities, financial projections, financial year budget, other matters the Minister requires and how it will implement the strategic objectives and how performance targets will be met³⁸; in line with any planning guidance that is handed down by the treasurer, minister or department.

4.2.2 Risk management: establish an appropriate risk management framework for SV³⁹, which includes:

1. Oversee, review and monitor:

- a) an effective risk management framework which includes informing the Minister and the Secretary of the DELWP of known major risks to the effective operation of SV and of the risk management systems that it has in place to address those risks⁴⁰ (including an effective approach to business continuity management⁴¹ and treasury and investment risk management⁴²);
- b) the approach for the identification, assessment, monitoring and management of financial management risks is established and maintained as part of SV's overall risk management framework⁴³; and
- c) any failures or deficiencies in complying with the Ministerial Directions⁴⁴.

4.2.3 Financial management, governance and compliance: ensure that SV implements the requirements of the FMA and the Standing Directions, which includes:

³⁶ Section 2.2 Standing Directions

³⁷ Section 3.1(f) Standing Directions

³⁸ Section 19 SV Act

³⁹ Standing Direction 3.7.1

⁴⁰ Section 81(1)(b) PAA

⁴¹ Section 3.7 Instructions supporting the Standing Directions

⁴² Standing Direction 3.7.2

⁴³ Standing Direction 3.1

⁴⁴ Section 79(f) PAA

1. **Oversee, review and monitor:**

- a) appropriate and effective financial governance and oversight arrangements⁴⁵;
- b) a framework for financial management compliance to ensure compliance with the FMA, the Standing Directions and all other Commonwealth and State laws, industry codes and accounting standards in relation to financial management⁴⁶;
- c) an appropriate internal management structure and oversight arrangements for planning, managing and overseeing the financial operations, risks and opportunities of SV to achieve performance and compliance⁴⁷;
- d) adequate controls to prevent fraud, corruption and other losses⁴⁸;
- e) all financial reports and other information that is to be reported or provided to external parties⁴⁹;
- f) organisational performance against agreed targets and goals⁵⁰; and
- g) formal, documented policies and procedures in relation to financial administration and management⁵¹.

2. **Approve:**

- a) Annual Report to the Minister⁵²;
- b) Annual Financial Statements⁵³;
- c) Key accountability reports including the report of operations and financial statements prepared under section 45 of the FMA⁵⁴;
- d) Annual Budget⁵⁵;
- e) ;Delegations of authority for capital and operational expenditure⁵⁶; and
- f) Delegations of authority for contracts⁵⁷.
- g) Appointment of internal auditors
- h) Annual Strategic Internal Audit Plan

4.2.4 Internal audit: ensure that SV establishes and maintains an internal audit function⁵⁸ which may be sourced internally and externally⁵⁹, which:

- a) Is independent of management⁶⁰
- b) has suitably experienced and qualified internal auditors⁶¹;

⁴⁵ Standing Direction 3.1

⁴⁶ Standing Direction 5.1.1

⁴⁷ Standing Direction 3.1(a)

⁴⁸ Standing Direction 3.5

⁴⁹ Standing Directions 5.2 and 5.3

⁵⁰ Standing Direction 2.2

⁵¹ Standing Direction 3.1

⁵² Standing Directions 2.2(a)(v) and 5.2

⁵³ Standing Direction 5.2.3

⁵⁴ Section 45 FMA and Standing Direction 2.2(a)(v)

⁵⁵ Standing Direction 2.2(a)(ii)

⁵⁶ Standing Direction 3.3

⁵⁷ Standing Direction 3.3

⁵⁸ Standing Direction 3.2.2(a)

⁵⁹ Standing Direction 3.2.2(b)

⁶⁰ Standing Direction 3.2.2(c)

⁶¹ Standing Direction 3.2.2(d)

- c) has access to the Board, Audit, Risk & Finance Committee, Chief Executive Officer and Chief Financial Officer, and has sufficient information, to enable it to perform its function⁶²;
- d) is subject to protocol to manage conflicts of interest for internal auditors⁶³.

4.2.5 Governance and organisational stewardship: ensure that effective governance is in place for SV, which includes:

1. Oversee, review and monitor:

- a) effective governance (including financial) for SV⁶⁴;
- b) Board and key organisational policies⁶⁵;
- c) effective relationships with the Minister and stakeholders, and that the Minister is briefed on relevant issues in a timely manner⁶⁶; and
- d) that SV activities reflect the public sector values and employment principles⁶⁷
- e) organisational health and deployment of the People Strategy;
- f) CEO performance .

2. Approve:

- a) The appointment of the Chief Executive Officer in conjunction with approval of the Minister⁶⁸, including:
 - i. setting and applying conditions of employment including remuneration for the Chief Executive Officer in accordance with the Victorian Government Sector Executive Remuneration Panel⁶⁹; and
 - ii. establishing performance measures for the Chief Executive Officer and assessing the Chief Executive Officer's performance on an annual basis⁷⁰; ensuring financial management leadership is secured from a suitably experienced and qualified Chief Financial Officer⁷¹.
- b) Board and Committee Governance Charters, terms of reference, gifts, benefits and hospitality⁷², conflict of interest⁷³, dispute resolution⁷⁴ and meeting and decision making policies⁷⁵;
- c) Membership to Board Committees⁷⁶;

⁶² Standing Direction 3.2.2(e)

⁶³ Standing Direction 3.2.2(f)

⁶⁴ Standing Direction 2.2

⁶⁵ Standing Directions 2.2(a)(ii), 2.2(c) and 3.1(d)

⁶⁶ Standing Direction 2.2(d) and section 81(1)(c) PAA

⁶⁷ Sections 7, 8, 61 and 62 PAA

⁶⁸ Section 15 SV Act

⁶⁹ Policy on Executive Remuneration in Public Entities

⁷⁰ Section 81(1)(h) PAA

⁷¹ Standing Directions 2.3.1(i) and 3.1

⁷² Section 81(g) PAA

⁷³ Section 81(f) PAA

⁷⁴ Section 81(d) PAA

⁷⁵ Section 81(h) PAA

⁷⁶ Section 83 PAA

- d) Board assessment process⁷⁷; and
- e) Key organisational policies every two years⁷⁸.

4.3 The role and accountabilities of the Chairperson

The role of the Chairperson is key to ensuring the Board and the Executive work effectively together to meet all legislative, statutory and governance requirements and obligations, including:

- a) ensure the Board provides leadership and strategic direction to SV;
- b) provide leadership to members and develop members as a cohesive team;
- c) manage the evaluation of the Board and individual board member contributions on an annual basis;
- d) manage the performance review process of the CEO
- e) ensure that all policies adopted by, or relevant to, SV and the Board are provided to, or made readily accessible to all members⁷⁹;
- f) set the agenda and timing of Board meetings and arrange for minutes to be accurately recorded in collaboration with the Chief Executive Officer and the Board Secretary;
- g) ensure the Board fully discharges its responsibilities; including members taking proper account of statutory and other obligations, including potential conflicts of interest or duty;
- h) chair Board meetings and direct Board discussions to effectively use the time available to address critical issues facing the organisation⁸⁰;
- i) liaise with Ministers as necessary;
- j) develop and maintain a constructive relationship with the Chief Executive Officer;
- k) ensure new members receive an appropriate induction and are provided with adequate support throughout their tenure;
- l) ensure there is a process to monitor and review member participation and Board performance;
- m) coordinate performance assessment of the members and the Chief Executive Officer;
- n) guide the ongoing effectiveness and development of the Board and individual members;
- o) ensure that all Board members have a balanced opportunity to express their views;
- p) ensure that all Board members participate actively in decision-making; and
- q) represent and promote the Board and the interests of SV in a range of forums at a State and National level and with the media.

The role of the Deputy Chairperson is to assist the Chairperson in discharging their role highlighted above⁸¹.

4.4 The role and accountabilities of the Chief Executive Officer

The Chief Executive Officer reports to the Board through the Chairperson of the Board and is responsible for carrying out SV's functions⁸², under the direction of the Board⁸³.

⁷⁷ Section 81(d) PAA

⁷⁸ Standing Directions 2.2(a)(ii), 2.2(c) and 3.1(d)

⁷⁹ Section 80 PAA

⁸⁰ Section 11(1) SV Act

⁸¹ Section 11(1)(b) SV Act

⁸² Section 15(3) SV Act

⁸³ Section 15(4) SV Act

The Chief Executive Officer provides leadership and strategic management to SV and ensures proper resource allocation and the timely delivery of outcomes. The Chief Executive Officer also provides leadership in exemplifying the ethical environment of SV.

The Chief Executive Officer must manage the performance of SV operations and financial processes .

In accordance with the strategic direction established for SV; and

- in line with the agreed standards, policies, delegations and codes of conduct;
- in accordance with government policy and procedures; and
- within the budget parameters set out in the Business Plan.

The Chief Executive Officer is accountable for:

- a) promoting the public sector values and employment principles⁸⁴;
- b) ensuring that persons employed by SV are informed about the application of the public sector employment principles and standards issued by the Victorian Public Sector Commissioner⁸⁵;
- c) designating the position of Chief Financial Officer⁸⁶;
- d) ensuring that proper accounts and records of the transactions and affairs of SV and such other records are kept to sufficiently explain the financial operations and financial position of SV⁸⁷;
- e) providing to the Minister or the Minister administering the FMA any financial information requested by the relevant Minister⁸⁸;
- f) causing to be prepared, in accordance with Part 7 of the FMA, financial statements of SV for the financial year⁸⁹;
- g) submitting the financial statements of SV to the Auditor-General within eight weeks after the end of the financial year, and lodging other statutory returns in accordance with legislation⁹⁰;
- h) certifying SV's financial statements⁹¹;
- i) ensuring governance practices are consistent with SV's Governance Framework⁹²;
- j) developing the organisational strategy, performance indicators, annual Business Plan and annual report for Board approval;
- k) managing the organisational budget⁹³ and maintaining proper internal controls⁹⁴ and management of information systems;
- l) overseeing the employment and management of staff⁹⁵;
- m) providing quality advice to the Board on all relevant issues, including governance;
- n) implementing Board decisions⁹⁶;
- o) measuring the performance of the organisation against the agreed objectives and reporting the outcomes to the Board;

⁸⁴ Section 7(2) and 8 PAA

⁸⁵ Section 62(4) PAA

⁸⁶ Section 43 FMA and Standing Direction 2.3.1(i)

⁸⁷ Section 44 FMA

⁸⁸ Section 44A FMA

⁸⁹ Section 45(1) FMA

⁹⁰ Section 45(2) FMA

⁹¹ Section 49(e) FMA

⁹² Standing Direction 4.1.1

⁹³ Standing Direction 2.3.1(j)

⁹⁴ Standing Direction 2.3.1(b)

⁹⁵ Standing Direction 4.1.1

⁹⁶ Section 15(4) SV Act

- p) maintaining effective relationships with key Ministers, Departments and other stakeholders; and
- q) represent and promote SV in a range of forums and with the media in consultation with the Chairperson.

4.5 The role and accountabilities of the Chief Financial Officer

The Chief Executive Officer has designated the Chief Finance and Accounting Officer role to the Chief Financial Officer⁹⁷. The Chief Financial Officer is responsible to the Chief Executive Officer for ensuring that proper accounting records and systems and other records are maintained in accordance with the regulations and directions⁹⁸.

The Chief Financial Officer is responsible to the Chief Executive Officer and in some respects to the Minister⁹⁹.

The Chief Financial Officer must have access to the Chief Executive Officer and the Board in carrying out the Chief Financial Officer's responsibilities¹⁰⁰.

4.6 The role and accountabilities of the Board Secretary and General Counsel

On the recommendation of the Chief Executive Officer, the Board will appoint a Board Secretary. All members have access to the advice and services of the Board Secretary for assistance in the management of the Board's own internal operations. The Board Secretary's responsibilities are formally documented here.

The Board Secretary's accountabilities are:

- a) assisting the Chairperson and Chief Executive Officer with the preparation of Board meeting agendas;
- b) support the decision making at the Board meeting regarding changes to agendas and forward planners;
- c) ensuring, in conjunction with the Chief Executive Officer, that Board papers are developed in a timely and effective manner and distributed to members;
- d) coordinating, organising and attending meetings of the Board and ensuring correct procedures are followed;
- e) drafting and maintaining minutes of the Board and its Committees for the consideration of the respective Chairpersons (or ensuring this is delegated to an appropriate staff member); and
- f) under direction from the Chief Executive Officer and the Executive Leadership Team, carrying out the instructions of the Board and giving practical effect to the Board's decisions.

The General Counsel:

- a) provides guidance and advice on governance issues for Board members; and
- b) monitors and advises on compliance with the SV Act and this Charter.

The General Counsel maintains the operational practices, policies and templates for the Board in the Corporate Governance Operating Manual (link).

⁹⁷ Section 43 FMA

⁹⁸ Section 43(2) and 44 FMA

⁹⁹ Section 44A FMA

¹⁰⁰ Standing Direction 2.4.1

5.0 Board committees

The Board may, at its sole discretion, formally delegate some of its responsibilities set out in 4.4 of this Charter to committees¹⁰¹. However:

- a) this does not diminish the ultimate responsibility of the Board to oversee the financial performance of SV and to ensure the integrity of the financial reporting; and
- b) the Board will retain oversight responsibility for the relevant actions and activities of its delegates¹⁰².

The Board shall establish committees to achieve specific objectives in line with its primary functions. The following committees are established on an ongoing basis and have an annual work calendar:

- a) Audit, Risk & Finance Committee¹⁰³; and
- b) Performance and Culture Committee.

These committees are not generally decision making bodies. They allow detailed attention to be given to particular matters, and they report to the Board. As the whole Board is responsible for its decisions and meeting its obligations, the findings of committees will be communicated to the whole Board.

All members may attend any committee meeting. As a courtesy, however, the chairperson of the committee should be advised of a member's intention to attend a meeting.

A minimum of three members must be appointed to each committee¹⁰⁴.

The terms of reference for the Audit, Risk & Finance Committee and the Performance and Culture Committee are provided in the Corporate Governance Operating Manual ([link](#)).

6.0 Board conduct

The Board's code of conduct policy applies to all Board members at all times in the performance of their duties. In summary:

Key principles:

- a) Obligations: the Board acts in accordance with its obligations and with good governance practice;
- b) Public interest: the Board acts in the public interest, collectively and individually;
- c) Directors Code of Conduct: Board members adhere to the governance principles in the PAA and related codes, in particular, the Directors' Code of Conduct¹⁰⁵; and
- d) Consolidated statement: the Board's code of conduct policy is a consolidated statement of the key standards of conduct, accountabilities and responsibilities that apply to Board members.

¹⁰¹ Section 83 PAA

¹⁰² Standing Direction 2.5

¹⁰³ Standing Direction 3.2.1

¹⁰⁴ Standing Direction 3.2.1.3(f)

¹⁰⁵ Issued by Victoria's Public Sector Commissioner pursuant to section 63 of the PAA.

Board members will act in the public interest at all times, collectively and individually. This includes complying with the Directors Code of Conduct, which promotes adherence to the public sector values in section 7 of the PAA¹⁰⁶.

The requirements of the Director's Code of Conduct are:

- a) Act with honesty and integrity. Be open and transparent in your dealings; use power responsibly; do not place yourself in a position of conflict of interest; strive to earn and sustain public trust of a high level;
- b) Act in good faith in the best interests of the public entity. Demonstrate accountability for your actions; accept responsibility for your decisions; do not engage in activities that may bring you or the public entity into disrepute;
- c) Act fairly and impartially. Avoid bias, discrimination, caprice or self-interest; demonstrate respect for others by acting in a professional and courteous manner;
- d) Use information appropriately. Ensure information gained as a director is only applied to proper purposes and is kept confidential;
- e) Use your position appropriately. Do not use your position as a director to seek an undue advantage for yourself, family members or associates, or to cause detriment to the public entity; ensure that you decline gifts or favours that may cast doubt on your ability to apply independent judgement as a director of the public entity;
- f) Act in a financially responsible manner. Understand financial reports, audit reports and other financial material that comes before the Board; actively inquire into this material;
- g) Exercise due care, diligence and skill. Ascertain all relevant information; make reasonable enquiries; understand the financial, strategic and other implications of decisions;
- h) Comply with the establishing legislation, or its equivalent, for your public entity. Act within the powers and for the functions set out in your public entity's establishing legislation and/or ministerial charter; and
- i) Demonstrate leadership and stewardship. Promote and support the application of the Victorian public sector values; act in accordance with the Directors' Code of Conduct.

Further information regarding the code of conduct can be found in section 5 of the Corporate Governance Operating Manual ([link](#))

7.0 Board policies

7.1 Conflicts of interest

A conflict of interest is a conflict between a Board member's:

- a) public duty to act in the best interests of SV; and
- b) their private interests (financial or non-financial).

A conflict of duty (sometimes called a 'conflict of role') is a specific form of conflict of interest that can occur even if the person does not have any financial or non-financial benefit at stake. It is a conflict between Board member's:

- a) public duty – i.e. duty to act in the public interest by making decisions that are in best interests of SV; and

¹⁰⁶ The public sector values are: integrity, impartiality, accountability, respect, responsiveness, human rights, and leadership

b) duty to another organisation – even if no private interest is attached.

A ‘duty to another organisation’ can be a duty to another public sector agency or to another public or private organisation. It exists due to the Board member’s role with the other organisation (e.g. as a committee member, employee, volunteer, organisation member, or other role), regardless of whether any private interest is involved.

Conflicts may be real, potential or perceived. They may be direct or indirect. They may be pecuniary or non-pecuniary.

Upon appointment to the Board, each Board member will make a Declaration of Private Interests. Board members will update their declaration annually. If a Board member’s circumstances change in the meantime, he or she will lodge an updated declaration, unless the change is already adequately recorded in the register as a result of a declaration made at a board meeting.

At the start of each Board meeting, the Chairperson (or presiding member) must ask if any Board member present has an interest (i.e. a private interest or a duty to another organisation) in respect to any matter on the agenda. Any member with an interest must declare it to the Board, including the nature of the interest and the conflict that results, or may result, from it (The actual dollar amount of a financial interest does not need to be disclosed).

The Board will manage all conflicts of interest in the public interest. When deciding how to manage a conflict of interest, the Board will first determine whether the conflict is material (serious). In doing so, the Board will take into account all the relevant factors and circumstances. The Board’s standard procedure for managing a material conflict of interest is to remove the Board member from all participation in the matter. Stronger or lesser options are also available depending on the circumstances and the materiality of the conflict.

Further information regarding conflicts of interest can be found in section 6 of the Corporate Governance Operating Manual ([link](#)).

7.2 Gifts, benefits and hospitality

As public officials, we all have a duty to conduct ourselves in accordance with the highest standards of integrity, impartiality and accountability. The way we respond to offers of gifts, benefits and hospitality is critical to earning and sustaining the trust of those we serve. Government, customers, clients, business partners and the Victorian community need to be confident that we perform our public duties without favouritism, bias or for personal gain. Similarly, we need to be confident that we are using public resources responsibly when we provide gifts or hospitality in the course of our work¹⁰⁷.

The main features of the policy are:

- offers of gifts, benefits and hospitality (**GBH**) must be declined if it is “prohibited”, that is, if it creates a conflict or could bring SV or the public sector into disrepute;
- GBH may be accepted if they are “token”, that is, up to \$50 value cumulative value over 12 months;
- non-token GBH may only be accepted if there is a legitimate business benefit
- modest tokens of appreciation and common courtesy are excluded: Board members may accept a coffee and a sandwich or a modest box of chocolates;

¹⁰⁷ Belinda Clark QSO, Victorian Public Sector Commissioner, Gifts, benefits and hospitality policy framework

- all non-token offers, even if declined, must be included in the gift register which is published on SV's website; and
- If a Board member is offered a non-token GBH:
 - disclose to the "responsible person" (Chairperson);
 - complete the gift offer declaration form and provide it to the Board Secretary;
 - decide if you will accept the GBH or not; and
 - it will be entered on the gift register (and published on the SV website).

Further information regarding gifts, benefits and hospitality can be found in section 8 of the Corporate Governance Operating Manual (link).

7.3 Meetings and decision making

An annual schedule of business is prepared by the Chairperson in consultation with the Chief Executive Officer and Board Secretary. A preliminary work calendar will outline the aims which the Board plans to achieve during its meetings over the next year.

Key events to be scheduled will include a strategic planning session, a performance review session and meetings to coincide with legislative requirements such as the approval of the annual report and accounts. It may be appropriate for the Board to schedule visits to operational sites to inform their decisions and general knowledge of operations. The Board should also consider routine matters such as the monthly financial and operational reports and committee reports.

The Board is collectively accountable for all its decisions, which must be based on due consideration, valid and made in the public interest. Whilst it is vital for Board members to consult together as a team, due diligence requires that each Board member decide individually whether to agree with, or dissent from, a proposed decision, and make their choice known¹⁰⁸. This is a key responsibility for each Board member, regardless of whether it results in a consensus vote. Each decision will be made by formal vote.

As part of its duty to exercise due care, diligence and skill, prior to making a decision the Board will ascertain all relevant information, objectively consider all relevant facts and criteria (and avoid irrelevant considerations), consider all relevant options and understand the full implications (strategic, financial, community, climate etc.) of its proposed decision.

Each Board member will balance respect for the expertise of others with their own duty to speak up, ask questions, and ensure that the correct decision is made.

To establish a quorum for making valid decisions (i.e. the minimum number of Board members who must attend the meeting and participate in the decision) a majority of the Board members must be present at a meeting¹⁰⁹.

At the start of each Board meeting the Chairperson will ask for all Board members present to state whether their entries in the Register of Gifts, Benefits and Hospitality and Register of Interests are complete and correct and if any Board member present has an interest in respect to any item on the agenda.

Further information regarding meetings and decision making can be found in section 3 of the Corporate Governance Operating Manual (link).

¹⁰⁸ ASIC v Hellicar [2012] HCA 17 (James Hardie case)

¹⁰⁹ Section 11(2) SV Act

7.4 Dispute resolution

A difference of opinion in relation to a strategic, business, policy, or other decision to be made by the Board is not a dispute and should be resolved in accordance with the Board's policy on Meeting and Decision-making Procedures.

If a dispute arises:

- a) the Board members in dispute (the 'parties') must make a reasonable, thorough, and conscientious attempt to resolve it on an informal basis; and
- b) the Chairperson should actively guide the parties towards informal resolution, with the support of other Board members.

If the Chairperson is a party to the dispute, this role should be undertaken by the Deputy Chairperson or other member nominated by the Board.

Further information regarding dispute resolution can be found in section 7 of the Corporate Governance Operating Manual (link).

7.5 Performance assessment

The performance of the Board will be assessed on an annual basis, including:

- the collective performance of the Board;
- the performance of individual Board members; and
- the performance by the Chairperson of his/her additional duties as Chairperson.

The purpose of assessment is to enable performance areas that require improvement to be identified and addressed.

The Board will document a performance assessment plan for the forthcoming year, or forthcoming cycle of two to three years. The plan will include assessment criteria, assessment methods, timing, feedback requirements; and reporting requirements (if any).

The performance assessment plan will specify which type of assessment or assessments will occur in a particular year, including:

- **Self assessment** will occur annually, using standard criteria set by the Board in its performance assessment plan;
- **Peer assessment** will occur every one to two years, whereby the Board will engage an independent person;
- **Independent assessment** will occur every two years to three years. The Board will engage an independent governance consultant who is experienced in public sector performance assessment.

Board members will be offered, and will make use of, appropriate opportunities for improving their Board skills.

Further information regarding performance assessment can be found in section 4 of the Corporate Governance Operating Manual (link).

8.0 Other important information for Board members

8.1 Directors and Officers indemnity

SV will maintain Directors and Officers liability insurance cover for and on behalf of Board members, subject to the terms and conditions of the policy obtained¹¹⁰.

8.2 Executive and staff employment power

Employees of SV are employed under Part 3 of the PAA¹¹¹, as employees of the public service.

By Instrument of Delegation (dated 26 June 2006) under section 11(2) of the PAA, the Secretary of DELWP, being the relevant public service body head under the PAA, delegated to the Chief Executive Officer, or any person appointed to act in that role from time to time the power of the public service body head in respect of SV to:

- (a) employ persons in respect of the public service body;
- (b) employ executives in respect of the public service body;
- (c) transfer employees to a public service body or to another public entity;
- (d) permit employees to engage in paid employment;
- (e) terminate employment and;
- (f) sub-delegate the power to an executive employed by SV under Division 5 of Part 3 of the PAA.

8.3 Stakeholder engagement

The Board is responsible for strategy, governance and risk. Effective stakeholder engagement and relationship management are strategic priorities for SV. They are critical both to perceptions of the organisation's effectiveness and to its capacity to deliver successful, lasting change that achieves its business objectives.

The Chairperson leads the strategic direction of SV.

The Chief Executive Officer is responsible for maintaining effective communication and co-operation with stakeholders in collaboration with the Chairperson.

The Chief Executive Officer and Chairperson will work closely on stakeholder engagement, agree on priorities and key messages.

The Board can support SV by enhancing reputation or supporting the Chairperson/ Chief Executive Officer or SV more broadly with their networks. Or, the Chairperson/ Chief Executive Officer may ask for assistance or support and include individual Board members in specific engagement.

The Chief Executive Officer will provide key messages to assist Board members when meeting SV stakeholders.

It is preferable for Board members to de-brief with the Chairperson or Chief Executive Officer following engagement with SV stakeholders, particularly if operational or project matters are raised.

¹¹⁰ SV's Directors and Officers liability insurance policy can be found at: <https://www.vmia.vic.gov.au/insure/policies/directors-and-officers-liability>

¹¹¹ Section 17 SV Act

If Board members are contacted in their capacity as members of the SV Board by the media or by lobbyists, they should contact the Chief Executive Officer or Board Secretary for advice before making any comment.

Stakeholder engagement protocols:

1. Board members should advise the Chairperson in the first instance or otherwise the Chief Executive Officer of interactions with SV stakeholders, to arrange, assist or follow up engagement.
2. The Chief Executive Officer will prepare Board members upon request to coordinate input or provide key messages for meetings.
3. Meetings with other Ministers or MPs on SV's behalf must be done in consultation with our Minister's office (via the Chairperson or Chief Executive Officer).
4. Meetings with Opposition MPs on SV's behalf should only be undertaken in consultation with the Chairperson, Chief Executive Officer and Minister's office.
5. There are separate conventions which must be followed during Caretaker Period prior to state government elections. Strict protocols apply. The Chief Executive Officer will brief the Board on this prior to any Caretaker Period.
6. SV will provide the processes and resources required to inform and support the Board and staff in building sound, productive and resilient stakeholder relationships.