


## Board Governance

### Managing Director's Authorisation

### Effective Date

Patrick Hone

14 February 2024



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## 1. PURPOSE

This Policy sets out the mechanisms to ensure the efficient and effective operation of the Fisheries Research and Development (FRDC) Board.

It aligns with, and augments, the *Public Governance, Performance and Accountability Act 2013*, *Primary Industries Research and Development Act 1989* and the FRDC Statutory Funding Agreement provisions in relation to the Board.

## 2. RESPONSIBILITY

Responsibility for this policy resides with the Company Secretary.

## 3. DEFINITIONS, ACRONYMS AND ABBREVIATIONS

Definitions link [Definitions](#)

Acronyms Link [Acronyms and Abbreviations](#)

## 4. RISK CATEGORY

This policy covers the following risk categories.

Strategic	Governance	Service Delivery	Reputational	Financial	Operational	People
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## 5. RELEVANT DOCUMENTATION

This section contains links to internally and externally facing documents – access to internally facing documents is restricted to FRDC employees.

Relevant documentation
<b>Internal</b>
<a href="#">Annual Operational Plan (AOP) and Portfolio Budget Statement (PBS) production procedure</a>
<a href="#">Annual report procedure</a>
<a href="#">Application evaluation procedure</a>
<a href="#">Board meeting administration procedure</a>
<a href="#">Board Finance and Audit Committee policy</a>
<a href="#">Board People and Culture Committee Policy</a>
<a href="#">Board appointments policy</a>
<a href="#">Code of conduct policy</a>
<a href="#">Financial statements procedure</a>
<a href="#">Risk policy</a>
<a href="#">Board Risk Dashboard</a>
<a href="#">Fraud Control procedure</a>
<b>External</b>
<a href="#">Primary Industries Research and Development Act 1989 ('PIRD Act')</a> . The functions and powers of the FRDC are set out in Sections 11 and 12 of the PIRD Act
<a href="#">Public Governance, Performance and Accountability Act 2013 (PGPA Act)</a>
<a href="#">FRDC Statutory Funding Agreement 2020-2030</a>

## 6. TRAINING

The training for the Policy will be delivered through New Director Board Inductions.

## 7. DOCUMENT MANAGEMENT

If any material resulting from this policy is to be filed to Nemo, refer to SharePoint [Nemo Scenarios](#).

## 8. PUBLICATION

This policy is to be made available on the FRDC website.

This policy is to be made available on the directors' site.

## 9. BACKGROUND

### *Statutory framework*

The Fisheries Research and Development Corporation (FRDC) was established by the PIRD Act 1989. The functions and powers of the FRDC are set out in sections 11 and 12 of the PIRD Act. The FRDC is also governed by the PGPA Act 2013 which regulates certain aspects of the financial affairs of Commonwealth authorities. In particular, it has detailed rules about reporting and accountability. It also deals with other matters such as banking and investment and the conduct of officers.

The FRDC Statutory Funding Agreement and its guideline document sets out the Governance arrangements in Principle 4 Governance:

### ***Governance arrangements and practices to fulfil legislative requirements and align with contemporary Australian best practice for open, transparent, and proper use and management of Funds.***

- *Good governance ensures stakeholders are well informed and have visibility of the RDC's investments, priorities and achievements*
- *Committee structures and corporate policies enable the RDC to manage day-to-day business activities and fulfil reporting obligations.*

All FRDC activity is evaluated within the context of its planned outcome: *Increased economic, social and environmental benefits for Australian fishing and aquaculture, and the wider community, by investing in knowledge, innovation, and marketing.*

## 10. POLICY

### **10.1 Board culture**

The Board is committed to maintaining a culture that promotes high performance. The culture of a Board that adds value is that of a team of people united around a common purpose. What distinguishes a high performing Board is that it is a 'robust, effective social system' characterised by a culture of accountability, independence, trust, diligence and candour. In this atmosphere an effective Board asks the hard questions and it does not rest until it gets good answers. Dissent is not viewed negatively, but is built on the respect held by directors toward each other; and the resulting trust engendered to disclose and discuss freely and frankly. Trust is earned by consistent behaviour that confirms mutual expectations. Trust is destroyed by factions, secret meetings, breaching confidentiality, ignoring proper Board processes, holding loyalties other than those to the Board as a governing body, and conflicts of interest. An effective Board will challenge, probe and make recommendations; have a creative, innovative approach to driving the business forward;

think long term about trends, future scenarios, be available to management to discuss issues; and have a comprehensive understanding of the critical success factors.

## 10.2 Board powers

The Board's authority to govern the FRDC is granted under the PIRD Act. The direction and control of the FRDC, including its business and affairs, is vested in the Board as a whole.

The Board may delegate all or any of its power (except the power to make the terms and conditions of the Managing Director's appointment) to a committee. The ultimate responsibility for strategy and control and oversight of sound and prudent management of the FRDC rests with the Board.

The Board will take a disciplined approach to carrying out its role, with the emphasis on strategic issues and policy. In the normal course of events, day-to-day management of the FRDC will be vested in FRDC management. Non-executive directors have no individual authority to make any representations or agreements with stakeholders, unless the Board explicitly delegates such an authority.

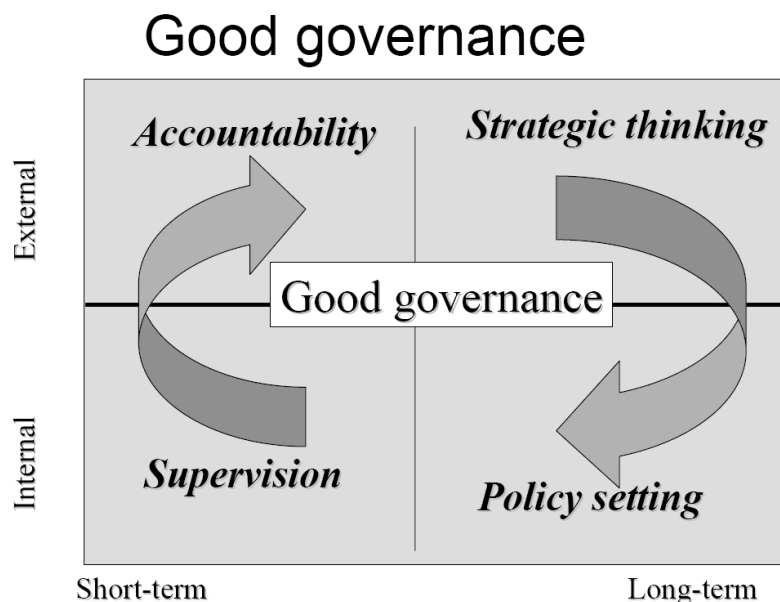
## 10.3 The objectives of the Board

The objectives of the Board are to add value by ensuring that appropriate governance is in place by:

- a. setting the strategic direction of the organisation
- b. developing policy to help implement this direction
- c. monitoring and supervising systems that deliver the results of the organisation
- d. ensuring accountability (including engaging with, and reporting to, stakeholders)
- e. ensuring legal compliance

## 10.4 Board governance

The Board has adopted the Tricker model of corporate governance as a framework for considering its role and functions.



## 10.5 Responsibilities of the Board

The responsibilities of the Board are to:

- a. ensure the FRDC Planned Outcome is promoted and delivered, and remain responsible for recommendations to the Finance Minister
- b. foster a corporate culture that matches the FRDC's values
- c. ensure that the FRDC adheres to high standards of ethics, probity and corporate behaviour (including approving the *Code of conduct policy*)
- d. regularly evaluate economic, political, social and legal issues and any other relevant external matters that may affect the development of the business or the interests of stakeholders and, if thought appropriate, take outside expert advice on these matters
- e. meet the statutory annual reporting requirements under Section 516A *Annual reports to deal with environmental matters* of the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act)
- f. ensure that the FRDC has appropriate risk management and regulatory compliance policies in place, and that they are adhered to; including Work Health and Safety (WHS) policies and procedures
- g. establish policies for strengthening the performance of the FRDC including ensuring that management is proactively seeking to build the business through innovation, initiative, technology, new products, and the development of its business capital
- h. appoint the Managing Director, set the terms of the Managing Director's employment contract, and at least annually evaluate his or her ongoing performance against predetermined criteria
- i. review the remuneration and other benefits strategies for the Managing Director
- j. monitor succession for the Managing Director and senior management
- k. monitor the performance of management
- l. decide on what steps are necessary to protect the FRDC's financial position and its ability to meet its debts and other obligations when they fall due, and ensure that such steps are taken
- m. approve the R&D Plan (at least every 5 years) for submission to the Minister for approval (section 20 of the PIRD Act)
- n. approve the Annual Operational Plan for submission to the Minister for noting (sections 25 and 26 of the PIRD Act) and related performance indicators, review performance against them, and initiate corrective action when required
- o. ensure that the FRDC's financial statements are true and fair and otherwise conform with law
- p. prepare the Annual Report under section 46 of the PGPA Act, and ensure that it provides performance information that demonstrates accountability for the expenditure of public monies and for the efficient and effective operation of the FRDC
- q. ensure that the FRDC complies with Ministerial statement(s) of expectations and other Commonwealth reporting requirements
- r. recommend to the Minister a director for appointment as the Deputy Chair

## **10.6 The role of the Chair**

The role of the Chair is to:

- a. represent the Board to stakeholders
- b. maintain an informal link between the Board and the Managing Director between Board meetings; including regular dialogue with the Managing Director on operational matters and consulting with the remainder of the Board promptly over any matter that gives him or her cause for concern
- c. act as a mentor for the Managing Director
- d. establish the Board agenda, the Board has sole authority over its agenda and will exercise this through the Chair. Any director may, through the Chair, request the addition of any item to the agenda. The Chair, in consultation with the Managing Director and the Company Secretary, will set the agenda.
- e. make sure that the Board has the necessary information to undertake effective decision making
- f. direct Board discussions to effectively use the time available to address the critical issues facing the FRDC

- g. act as a facilitator at Board meetings to ensure that no director, whether executive or non-executive, dominates discussion, that appropriate discussion takes place and that relevant opinion among directors is forthcoming
- h. ensure that Board discussions result in logical and understandable outcomes
- i. summarise Board decisions, thereby ensuring Board minutes properly reflect Board discussions.
- j. oversee the Board performance evaluation processes
- k. attend the annual Statutory Funding Agreement meeting with the Department of Agriculture, Fisheries and Forestry (DAFF)

### **10.7 The role of the Deputy Chair**

The role of the Deputy Chair is to:

- a. assist the chair
- b. fulfil the role of the Chair in the latter's absence
- c. conduct the Board meeting performance evaluation held at the end of each meeting
- d. attend the annual Statutory Funding Agreement meeting with the DAFF

It is essential that the chair and deputy chair have a good working relationship and understand their roles to ensure that duplication or confused direction does not occur.

### **10.8 The role of individual directors**

In accordance with statutory requirements (see Divisions 2 and 3 of the PGPA Act) and in keeping with developments at common law, directors will have the following roles:

- a. to ensure the Board provides leadership and vision to the FRDC
- b. to ensure the integrity and effectiveness of the governance process of the Board
- c. to discharge their duties in good faith and honestly in the best interests of the FRDC with the level of skill and care expected
- d. to use the powers of office for proper purpose, in the best interests of the FRDC as a whole
- e. to act with required care and diligence, demonstrating commercial reasonableness in his or her decisions
- f. to avoid conflicts of interest (refer Attachment 1 for guidance)
- g. not make improper use of information gained through his or her position of director
- h. not to allow personal interests, or the interest of any associated person, to conflict with the interests of the FRDC
- i. to make reasonable inquiries to ensure that the FRDC is operating efficiently, effectively and legally towards achieving its objectives
- j. to undertake diligent analysis of all proposals placed before the Board
- k. to hold each other accountable to ensure the focus of the Board is largely on strategic, not operational matters
- l. to serve on Board committees as required
- m. to act within any limitations imposed by the Board on its activities
- n. to rely on information and advice provided by others as long as the reliance was made in good faith and after making proper inquiry if the information provided raises any suspicion of irregularity
- o. to keep themselves abreast of changes and trends in the business and in the FRDC's operating environment; and to keep abreast of changes and trends in the economic, political, social and legal climate generally
- p. to use their best endeavours to attend Board meetings and to prepare thoroughly for them; to participate fully, frankly and constructively in Board discussions and other activities, and to bring the benefit of their particular knowledge, skills and abilities to the Board table (directors unable to attend a meeting should advise the Company Secretary as soon as possible).

- q. to be active in areas that enable them to relate to the FRDC's R&D Plan, and to make meaningful contributions to the Board's deliberations. They will be independent of management.
- r. to take responsibility for their ongoing professional development. This will be supported by the FRDC as detailed at Attachment 3.

### 10.9 The role of the Managing Director

The Board links the FRDC's governance and management functions through the Managing Director. Only decisions of the Board acting as a body will be binding on the Managing Director. Decisions or instructions of individual directors, officers or committees will not be binding except in those instances where the Board gives specific authorisation. All Board authority conferred on management is delegated through the Managing Director so that the authority and accountability of management is considered to be the authority and accountability of the Managing Director so far as the Board is concerned.

The Managing Director will:

- a. be responsible to the Board for the overall management and performance of the FRDC. He or she will manage the entity in accordance with the strategy, plans and policies approved by the Board to achieve the FRDC's outcome and be accountable for the observance of any management limitations
- b. take and approve all and any actions and initiatives required to deliver the FRDC's Research & Development (R&D) Plan and Annual Operational Plan as approved by the Board
- c. act within all specific authorities delegated to him or her by the Board (ensuring transactions outside his or her delegation levels are referred to the Board for approval)
- d. not cause or permit any practice, activity or decision that is contrary to the FRDC's *Code of conduct* policy or commonly accepted good business practice or professional ethics
- e. adhere to the FRDC's Planned Outcome within the confines of the PIRD Act in allocating the resources of the FRDC
- f. not cause or permit any action without taking into account the health, safety, environmental and political consequences, and their effect on long-term stakeholder value
- g. not cause or permit any action that is likely to result in the FRDC becoming financially embarrassed
- h. adequately maintain and protect the assets of the FRDC and not unnecessarily place them at risk. In particular, the Managing Director will manage the FRDC with a comprehensive system of internal control; and assets or funds will not be received, processed or disbursed without controls that, as a minimum, are sufficient to meet standards acceptable to the FRDC's external auditors
- i. not cause or permit anyone to substitute their own risk preferences for those of the Board as a whole in managing the risks of the FRDC
- j. not permit employees and other parties working for the FRDC to be subjected to treatment or conditions that are undignified, inequitable, unfair or unsafe
- k. not cause or permit payments to be made or rewards to be given unless they are in return for contributions towards the purposes of the business and are proportional to the extent that the contribution in question has furthered such purposes
- l. be paid as an employee of the FRDC in accordance with his or her contract of employment with the FRDC
- m. agree with the Board an annual performance contract
- n. provide the Board with operational and other reports and proposals, and such assurances as the Board considers necessary to confirm that any management limitations are being observed at each of its normal meetings
- o. keep the Chair informed on all important matters between Board meetings
- p. as required, delegate his/her powers under the PIRD Act in accordance with section 91 of the PIRD Act
- q. attend Board meetings to discharge his or her Board responsibilities (at Board meetings Board responsibilities will supersede management responsibilities)

The Board's *limitations* requirements of the Managing Director are at Attachment 2.



### **10.10 The role of the Company Secretary**

The Company Secretary will be responsible for the administrative and legislative requirements of the Board so as to:

- a. ensure that the Board agenda is developed in a timely and effective manner
- b. coordinate, organise, and attending meetings of the Board and ensure that correct meeting procedures are followed
- c. draft and maintain minutes of Board meetings
- d. in conjunction with the Managing Director and other senior management, carry out the instructions of the Board and give practical effect to the Board's decisions
- e. meet statutory reporting requirements in accordance with relevant legislation
- f. work with the Chair and the Managing Director to establish and deliver best practice governance
- g. ensure that Board procedures are followed, that the Board complies with all applicable rules and regulations for the conduct of the affairs of the Board, and that all matters associated with the maintenance of the Board are performed efficiently

All directors, but particularly the Chair, will have access to the advice and services of the Company Secretary for the purposes of the Board's affairs and its business.

### **10.11 Induction for new Chair and directors**

On their first appointment, the Chair and non-executive directors will have the benefit of an induction program aimed at building their understanding of the FRDC, and the business and the environment in which the FRDC operates.

### **10.12 Access, Indemnity and insurance**

The FRDC will enter into an *Access, Indemnity and Insurance Deed* with each director of the FRDC; and with any independent member(s) appointed by the Board to its committees. To do so the FRDC will use its template agreement, which will only be amended with the express agreement of the Board. The FRDC signatory will be the Managing Director; or, in the case of the Managing Director, the Chair, as agreed by the Board. The FRDC will pay the premiums for indemnity and insurance cover where directors act in their capacities as directors to the fullest extent permitted by the relevant legislation. [Note that directors are able to organise additional insurance at their own cost.]

### **10.13 Meetings**

The Board will aim to meet as per the framework outlined in the Board meeting administration procedure. The Company Secretary, or another person appointed by the Board, will take minutes of the proceeding of all Board meetings. The Chair will seek a consensus in the Board's decision-making process but may, where considered necessary, call for a vote.

### **10.14 Board appointments (Department process)**

Board appointments are made in accordance with the PIRD Act: Part 2, Division 2 – Constitution of Research Development Corporations, Division 8 – Provisions relating to directors other than Executive Directors and Part 4 – Selection Committees.

Both the Presiding Member, and the FRDC Chair are appointed by the Minister.

A range of legislation governs the Departments approach to diversity and inclusion, and the legislative responsibilities on available on the Departments website at

<https://www.agriculture.gov.au/about/jobs/inclusion-strategy/2021-24> .

### **10.15 Board appointment process to internal Board positions**

Board appointments to internal Board positions will be made according to the following:

- a. The election will be based on a secret ballot of directors
- b. Director(s) receiving the most votes will be elected
- c. Each director present will vote on one name only
- d. The Chair will vote with directors and does not have a casting vote
- e. A tied vote will be decided by the toss of a coin
- f. The Company Secretary will act as scrutineer

### **10.16 Board Committees**

The Board will establish committees to share detailed work and consider certain issues and functions in detail (section 89 of the PIRD Act). Board committees will be formed only when it is efficient or necessary to facilitate efficient decision-making. Typically, Board committee assignments will be allocated according to each director's field of expertise.

**8.15.1** The Board has established the Finance and Audit (F&A) Committee and the People and Culture Committee to assist it in fulfilling its duties and responsibilities. The Board has delegated certain powers to the F&A Committee through the *Board Finance and Audit Committee policy* (see *Finance and Audit Committee policy*); and to the People and Culture Committee through the *Board People and Culture Committee policy* (see *People and Culture Committee policy*).

### **10.17 Independent professional advice**

Any director is entitled to obtain independent professional advice relating to the affairs of the FRDC or to his or her other responsibilities as a director. If a director considers such advice is necessary the director will first discuss it with the Chair and, having done so, will be free to proceed. Subject to the prior approval of the Chair, the cost of the advice will be reimbursed by the FRDC, but the director will ensure, so far as is practicable, that the cost is reasonable.

### **10.18 Common seal**

The FRDC will have a common seal that the Company Secretary will keep in safe custody. The Managing Director and one other director will attest use of the seal. The Company Secretary will report to each Board meeting on the use of the common seal (including a nil report). The Company Secretary will maintain a register of the common seal's use.

### **10.19 Provision to the FRDC of business or professional services by directors**

Because an actual or perceived conflict of interest may be created, directors will not, generally, provide paid business or professional services of an ongoing nature to the FRDC. For example, the FRDC does not favour its directors being Principal Investigators because of the difficulty he or she would face in maintaining his or her fiduciary duties in that situation.

Notwithstanding the general rule, the FRDC may, for the purpose of a special assignment, engage the services of any director having special expertise in the particular field, so long as the terms of engagement are approved by the Board, competitive, are clearly recorded and all legal requirements for disclosure of the engagement are properly observed.

### **10.20 Gifts and benefits**

Directors will not solicit anything of significant (over \$100) monetary value that could put his or her independence of judgement under pressure, appear as a conflict of interest, or compromise his or her

relationship with the FRDC. A director who becomes entitled to receive, or is offered, any benefit as a result of being a FRDC director will immediately advise the Chair and Managing Director (who will have it recorded in the FRDC's Gifts and Benefits register).

The Chair and Managing Director, at their absolute discretion, will:

- approve the acceptance of the benefit (for example, where the gift is offered by someone from a different cultural background); or
- if the benefit is transferable, direct the director to transfer the benefit to the FRDC or some other person; or
- ask the director to refuse the benefit.

## 11. BOARD EVALUATIONS

The Deputy Chair convenes the Board evaluation at the end of each meeting (usually the last agenda item), and discusses the Board performance with the Directors. In addition, and at its discretion, the Board may critically evaluate its own performance by completing the "Governance effectiveness survey" (a sample is in the Board administration procedure). The Chair will discuss the overall results with the Board as a whole, and will use these discussions as the basis for recommendations that may be brought back to the Board for consideration. This would most commonly be done at the end of the first year of a Board's term.

The FRDC will hold an external Board performance review during the life of each Board (usually mid-term); and in so doing, make the peer and self-assessment component of the review available to all directors.

## 12. ATTACHMENTS

#	Description
1	Material personal interests guidance
2	Managing Director limitations
3	Professional development for directors

## Attachment 1 – Material personal interests guidance

The purpose of this attachment is to provide guidance to directors as to what would constitute a conflict of interest for directors of the FRDC.

### *Background*

A director must not improperly use FRDC information to:

1. gain an advantage for himself or herself or someone else
2. cause detriment to the FRDC or to another person: section 27 of the PGPA Act

Criminal penalties may be imposed if directors fail to act in good faith or use their position or any information known to them as a result of their position as director dishonestly.

An offence is committed when a director is reckless or intentionally dishonest and fails to exercise his/her powers or discharge his/her duties in good faith for proper purpose. A director will not be in contravention if undertaking an act that another provision of the PGPA Act requires the director to do.

Conflict of interest issues for directors are dealt with in the *Public Governance, Performance and Accountability Act 2013* (Cth) (PGPA Act) as part of directors' duties. Under the PGPA Act a director of the FRDC must, subject to some limited exceptions, give the other directors notice of a "material personal interest" in a matter that relates to the affairs of the FRDC.

Importantly, where the director has a "material personal interest" in a matter that relates to the affairs of the FRDC, in addition to the duty to disclose that interest, the director must not be present while the Board is discussing that matter and, importantly, must not vote on the matter unless one of a number of specific exceptions applies.

Directors are appointed on the basis of their expertise in accordance with section 131 of the PIRD Act and for the purpose of obtaining the mix of directors that will collectively possess an appropriate balance of expertise in as many as possible of the fields referred to in section 131, having regard to the fishing industry.

A director's connection with any particular organisation or interest group will not necessarily be a material personal interest in the affairs of the FRDC.

### *Definitions*

Material personal interest is not defined in the PGPA Act or the Corporations Act 2001.

Case law suggests that an interest that does not give rise to a "real sensible possibility of conflict" would not be a material personal interest. The interest would need to be materially affected by the outcome of the Board's deliberations, and the duties to disclose and not participate in deliberations would be limited to a matter that is, or might reasonably be expected to be, brought before the Board for its consideration.

The types of interests that a director of the FRDC would generally (other than some specific exceptions) have a duty to disclose, and in relation to which a director should not participate in Board deliberations, include:

- (a) any contract or proposed contract in relation to which the director either directly or indirectly might receive a benefit;
- (b) any office held by a director in any entity that would be reasonably expected to have dealings, directly or indirectly, with the FRDC;

- (c) any pecuniary interests (such as holding shares) in entities that have dealings, directly or indirectly, with the FRDC; and
- (d) an interest in property that might be affected by any decision of the Board.

Depending on the circumstances, a director is also required to disclose non-financial interests (such as having assisted in preparing an application that the directors are to consider for FRDC funding).

The following are examples that provide a guide to the application of this policy, but in practice will depend on the particular circumstances:

- A director would usually be expected to disclose if he/she, or a member of that director's immediate family is an employee of a company or research agency and an R&D application from the organisation was being evaluated by the Board.
- A director would usually be expected to disclose that he/she, or any organisation to which the director is associated, is a shareholder of an organisation that holds a licence to fish in a fishery in which management changes (to either the organisation's benefit or detriment) could result from FRDC funded R&D.
- A director would usually be expected to disclose that he/she, or his/her immediate family, or any organisation to which the director is associated is a member of an organisation such as an industry association or research agency that has had a strong involvement in the development of an application that, if approved, could benefit the organisation or a member of the organisation.
- A director would usually be expected to disclose that his/her immediate family, or any organisation to which the director is associated is directly associated with a fishery's research, policy, management and/or other related agency, the operation of which could be affected by the Board's decision on an application; or may have close personal ties with an applicant.

#### *FRDC standard practice*

A director who considers that he/she may have a material personal interest in a matter to be discussed by the Board ("**conflicted director**") will:

- (1) as soon as practicable after the director becomes aware of his/her interest in the matter give details of the nature and extent of that interest, and the relationship of the interest to the FRDC, either in a "standing notice" or at a meeting of the directors; and
- (2) before any discussion takes place on that matter, leave the meeting while that matter is discussed
- (3) in addition as per the requirements under the PIRD Act (refer section 70), it is the directors responsibility to notify the Minister directly where a director engages in any paid employment that, in the Minister's opinion, conflicts or may conflict with the proper performance of the director's duties. It would be prudent for a director to notify the Minister of prospective paid employment prior to accepting. A director may also need to advise the Minister of any change in circumstances with any previously declared outside employment.

The Chair may raise with any of the remaining directors any issue that has come to the Chair's attention, and may request the Board secretary to raise any issue that has come to the secretary's attention, that might suggest that a remaining director ("**affected director**") has an actual or perceived material personal interest in a matter to be discussed by the Board, and the Chair will invite the affected director to respond;

If the affected director confirms that he/she has a material personal interest, he/she will leave the meeting while that matter is discussed. If the affected director maintains the he/she does not have a material personal interest, he/she may choose to leave or remain in the meeting while that matter is discussed, and the remaining directors

(including the affected director if he chooses to remain) may vote on whether discussion on that matter should be postponed.

In the absence of the conflicted director(s), the remaining directors will discuss the nature of each of the declared interests and whether to:

- invite a conflicted director back to the meeting on the basis that those directors are satisfied that the interest should not disqualify the conflicted director from voting or being present
- invite a conflicted director back to the meeting to answer Board queries
- not invite a conflicted director back to the meeting while that matter is discussed.

The Chair may seek legal advice at any time in relation to any issue arising from a director's perceived or actual material personal interest in a matter.

In deciding whether to invite a conflicted director back to the meeting to answer Board queries, the remaining directors will take into account the unique expertise the director may be able to provide. The remaining directors, in querying a conflicted director, will ensure that the director is not able to influence the Board in making its decision. If the remaining directors choose to invite a conflicted director back to answer queries, the conflicted director will leave the meeting immediately after answering those queries.

The remaining directors will discuss the matter, and make its decision in the absence of the conflicted director(s).

Board papers would be distributed to all Directors:

- except where a direct conflict arises, where a Director is named in a project and/or project application, in which case the Board papers would be redacted for that agenda item to that Director
- the Managing Director and/or Company Secretary would discuss any other high risk material personal interests with the Chair, who would make the decision if the Board papers require redaction to that Director
- in all cases, where a redaction was decided, the Director would be advised
- the minutes would be provided to all Directors and where project applications were approved, only the decision and additional conditions would be noted, and exclude any deliberations from the Boards decision making process

A standing notice about new directors' interests will updated at each Board meeting. All declarations of interests, and their consideration by the Board, will be recorded in the minutes. New Directors' Material Interests will be recorded in the Directors' Material Interest Register stored on the Board site.

*Exceptions from disclosure requirement*

A director does not have to disclose a material personal interest where:

1. the interest arises in relation to the director's remuneration as a director of the FRDC;
2. the interest relates to a contract that insures, or would insure, the director against liabilities the director incurs as an officer of the company (but only if the contract does not make the FRDC or a subsidiary of the FRDC the insurer)
3. the interest relates to any payment by the FRDC or a subsidiary of the FRDC in respect of an indemnity or any contract relating to such an indemnity
4. the interest is in a contract, or proposed contract, with, or for the benefit of, or on behalf of, a subsidiary of the FRDC and the director's interest arises merely because the director is a director of the subsidiary;
5. all the following conditions are satisfied:
  - a. the director has already given notice of the nature and extent of the interest and its relation to the affairs of the FRDC

- b. if a person who was not a director of the FRDC at the time when the notice was given is appointed as a director of the FRDC—the notice is given to that person; and
  - c. the nature or extent of the interest has not materially increased above that disclosed in the notice; or
6. the director has given a standing notice of the nature and extent of the interest and the notice is still effective in relation to the interest.

Where the Board meets via teleconference, the above guidance will apply, except that instead of leaving the meeting a director with a material personal interest will refrain from engaging in the discussion.

Where directors are asked to make a decision out of session via email, a director with a material personal interest will advise the Company Secretary of the conflict and refrain from commenting or voting on the decision.

## Attachment 2 – Managing Director limitations

### *Overarching Managing Director limitation*

The Managing Director will not take, allow or approve any action or circumstance in the name of FRDC that is in breach of the law, is imprudent, which contravenes any organisation specific or commonly held business or professional ethics or is in breach of generally accepted accounting principles.

### *Financial planning*

Budgeting for any financial year or the remaining part of any financial year will be designed to ensure the achievement of the Board-determined outcomes. The Annual Operational Plan (AOP) will demonstrate:

1. a credible projection of revenues and expenses,
2. separation of capital and operational items
3. projection of cash flows
4. disclosure of planning assumptions

In developing the AOP the following are outside the scope of the Managing Director's authority:

1. creation of financial risk beyond Board-determined parameters
2. planned expenditure in any financial year that would result in default under any of FRDC's financing agreements or cause insolvency
3. omitting to incorporate/accommodate medium to long-term financial plans/projections and long-term business direction
4. omitting to provide for the Board's developmental and other expenditure

### *Financial management*

The Managing Director is responsible for the day-to-day financial management of the organisation. In carrying out this duty he/she will ensure that nothing is done, or authorised to be done, that could in any way cause financial harm or threaten the organisation's financial integrity. In exercising this delegation, the following are outside the scope of the Managing Director's authority:

1. use of organisational funds, or entry into any contracts or acceptance of liabilities, other than for the furtherance of Board-approved purposes and priorities
2. allowing undisputed invoices from suppliers of goods and services to remain unpaid beyond trade credit terms agreed with those suppliers
3. authorising expenditure beyond the level established by the Board
4. acquiring, encumbering or disposing of FRDC owned land or buildings.
5. neglecting to ensure that there are limitations on expenditure and adequate controls on the use of credit or other purchase cards by card holding staff
6. failing to take all reasonable steps to pursue receivables overdue

### *Investments*

The Managing Director will not allow or cause to allow FRDC's investment assets to be invested in a manner that threatens its financial security or neglect to maintain sufficient liquidity to meet short to medium-term financial commitments.



### *Remuneration and benefits*

In managing the setting and review of salaries and benefits, the Managing Director will not make decisions or promises that would in any way cause or threaten financial harm to the organisation. In exercising this delegation, the following are outside the scope of the Managing Director's authority:

1. changing his/her remuneration.
2. creating obligations that cannot be met over the projected period of the individual's term of employment or over a period for which revenues can realistically be projected
3. causing unfunded liabilities to occur or in any way committing FRDC to benefits that incur unpredictable future costs
4. making promises or offers of long-term employment under circumstances when such guarantees or promises cannot realistically be honoured

### *Protection of assets*

The Managing Director will not fail to take all prudent and reasonable actions to ensure that FRDC's assets, physical and intellectual, are protected against all foreseeable damaging circumstances. In exercising this delegation, the following are outside the scope of the Managing Director's authority:

1. permitting any unauthorised person to handle cash
2. processing the receipt or disbursement of funds outside of controls acceptable to the duly appointed auditor
3. allowing the assets to be insured for less than is considered necessary for prudent risk-management
4. making any purchase of goods or services without protection against conflict of interest
5. omitting to protect intellectual property, information, and files from loss, improper use, improper purposes, or significant damage
6. omitting to ensure that there are appropriate and effective security systems in place to adequately safeguard against loss, common damage or theft of staff, customer and organisation property
7. omitting to maintain a current assessment and evaluation of the risk factors that could conceivably disrupt FRDC's effective and efficient operation

### *Communication and support to the Board*

The Managing Director will not permit the Board to remain uninformed about issues or concerns essential to the meeting of its duty of care, the carrying out its responsibilities and the meeting of its accountabilities to its owners and key stakeholders. The Managing Director will not:

1. neglect to provide support and information in a timely, accurate and understandable fashion addressing the various issues to be monitored by the Board
2. neglect to provide financial reports that make clear:
  - significant trends
  - data relevant to agreed benchmarks and Board-agreed measures
  - further Board financial data as determined by the Board from time-to-time
3. omit to inform the Board of significant external environmental trends, adverse media coverage, achievement of, or progress towards the achievement of, the Board's strategic direction or changes in the basic assumptions upon which the Board's policies are based
4. omit to inform directors when for any reason there is actual or anticipated non-compliance with a Board policy
5. omit to inform the Board of any breach of any externally imposed compliance requirement
6. omit to inform the Board of any serious legal conflict or dispute, or potential serious legal conflict, or dispute that has arisen or might arise in relation to matters affecting FRDC

7. omit to ensure that the Board is provided with the necessarily wide range of views and perspectives in support of effective decision-making
8. omit to bring to the Board's notice such occasions when it is in breach of its Board processes and policies, particularly when this relates to the Managing Director's ability to carry out his/her responsibilities
9. fail to deal with the Board as a whole except when responding to individual requests for information or requests from Board committees or working parties

#### *Emergency Managing Director succession*

The Board recognises that one of its major risks is the loss of key personnel, particularly its Managing Director. To this end the Managing Director will not fail to ensure that there is in place an emergency management regime that can operate in the event of unexpected loss of his or her services. There will also be at least one person capable of responding to Board concerns and requirements at a level necessary for effective governance.

#### *Employment conditions*

In exercising the delegation for the management of staff, the Managing Director will ensure that the workplace environment is conducive to sound workplace practices, consistent with workplace legislation and FRDC's core corporate values. In exercising this delegation the Managing Director will not:

1. omit to provide staff with clear guidelines as to their rights, entitlements and workplace obligations
2. omit to provide staff with 'safe', 'dignified' and 'fair' working conditions as defined in relevant workplace legislation
3. deny any employees their right to an approved and fair internal grievance process
4. omit to ensure that all staff members are acquainted with their rights under this policy

#### *Public affairs*

The Managing Director will not undertake, approve or in any way support any action that is directly or indirectly demeaning or derogatory or in any way damaging to FRDC.

### Attachment 3 – Professional development for directors

The FRDC Board believes its non-executive directors have extensive obligations concerning the performance of their duties arising from various sources including the PIRD Act, PGPA Act, and the common law.

The FRDC Board will encourage directors who have not done the Australian Institute of Company Directors (AICD) company director's course to undertake it during their first year in office. Directors will normally make their own arrangements to attend the course and should try to minimise costs. The FRDC will cover the course and associated costs. However, where a director is also on other Boards, the FRDC should be expected to cover only its fair share of the costs. The FRDC will make other professional development programs available to directors as it deems necessary.

#### *FRDC investment in non-executive directors' attendance for personal development at conferences, workshop and seminars*

As there may be a perception that a non-executive director is deriving personal benefit from professional development, the FRDC Board regards it as important that a clear nexus be demonstrated between professional development opportunities and director duties; and that the process for approval is reasonable and transparent.

Non- executive directors' attendance at conferences, workshops and seminars will be based on the need for:

- FRDC representation
- FRDC expertise
- personal and professional development

Non-executive directors seeking financial support to attend a conference, workshop or seminar will seek Board approval. The Board, in making its decision on whether to provide financial support, will take into account the:

- need for FRDC representation
- demonstrable benefits to the FRDC
- personal and professional development opportunities

Where a non-executive director seeks the FRDC's financial support to attend a conference, workshop or seminar he/she will:

- discuss the matter with the Chair
- complete a "[Request to attend a conference, workshop or seminar](#)" form and submit it through the Managing Director for Board approval.

A non-executive director who has been provided financial support to attend a conference, workshop or seminar will provide to the Board at its next meeting after the event:

- a concise, written report identifying the R&DE implications arising
- a copy of any papers or publications

If another agency also benefits from the non-executive director's attendance, the costs of attendance should be shared (refer Travel policy).

The FRDC will maintain a record of all approved non-executive director professional activity on the relevant personnel files.

# Board Governance policy - Board approved

Final Audit Report

2024-02-22

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