

Created	June 2019
Prepared by	Chair of the Governance Committee
Approved by	Board
Date of approval	7 May 2021 (Board meeting)
Responsibility	Board
Next date of review	November 2022

### Approval

This Charter and any variations to it must be approved by the Board.

### Purpose

This Board Charter sets out the function, duties and responsibilities of the Wine Australia Board and its directors to promote and strengthen the management, accountability, performance, governance and strategic direction of Wine Australia.

### Authority

The Board constitutes the 'Accountable Authority' of Wine Australia pursuant to section 12 of the *Public Governance and Accountability Act 2013 (PGPA Act)*.

Accordingly, the Board and its directors assume responsibility for, and control over Wine Australia's operations and are responsible for promoting a high standard of accountability, performance, risk management and control.

### Responsibilities

The specific powers of the Board are created under the *Wine Australia Act 2013 (Act)*. The Act lists Wine Australia's statutory objects, functions and powers and the constitutional limits within which Wine Australia must perform its functions. Wine Australia is not permitted to conduct activities that fall outside its statutory or constitutional remit as defined by the Act.

The responsibilities of the Board are:

- providing strategic direction for the organisation
- approving Wine Australia's budgets, annual operational plans and monitoring performance against those plans
- providing the Minister with an annual report, including performance and financial statements
- providing the Minister with five-yearly strategic plans in accordance with the Act
- monitoring the organisation's financial position and its ability to meet its debts and other obligations as they fall due
- ensuring that the organisation's financial results are appropriately and accurately reported on a timely basis
- reviewing the principal operational and other risks faced by Wine Australia that have the potential to have a material impact on the organisation and taking all reasonable steps to

ensure that appropriate internal control and monitoring systems are put in place by management to manage and, to the extent possible, reduce the impact of these risks

- reviewing and approving the organisation’s internal compliance and control systems and codes of conduct and taking all reasonable steps to ensure that the organisation operates openly and ethically
- monitoring compliance with legal, corporate governance, and organisational policies, including compliance with the organisation’s obligations under its statutory funding agreement with the Commonwealth
- taking all reasonable steps to ensure that the organisation’s financial and other internal reporting mechanisms result in adequate, accurate and timely information being provided to the Board
- taking all reasonable steps to ensure compliance by Wine Australia with all laws, governmental regulations and accounting standards
- maintaining sufficient oversight of all Wine Australia policies
- approving any framework or policy for setting remuneration
- overseeing the effectiveness of communication with key stakeholders, and
- promoting and monitoring corporate culture in a way that enlivens the organisation’s key values and signature behaviours with a view to “setting the tone from the top”.

### Approval of policies

The Board is responsible for approving policies. The Board may delegate the approval of policies at its discretion where such policies do not relate to probity, ethics, procurement or the management of intellectual property.

Policies that require Board approval should be presented to the Audit and Risk Committee prior to being presented to the Board and the Audit and Risk Committee should subsequently recommend to the Board whether to approve such policy. Policies for which approval is delegated – whether to the Audit and Risk Committee or otherwise, must be presented to the Board for information only.

Amendments to existing policies that are not material in nature may be approved by the Audit and Risk Committee.

### General duties of the Board

Sections 15 to 19 of the PGPA Act set out the general duties of the accountable authority. The five general duties are:

- to govern Wine Australia
- to establish and maintain systems relating to risk and control
- to encourage cooperation with other entities in a way that minimises duplication and achieves common objectives where practicable in relation to requirements imposed on others
- keep the Minister informed about the activities of Wine Australia, within the time limits set by the Minister, and

- give the Minister and the Finance Minister any reports, documents and information they require on the activities of Wine Australia within the time limits they set.

### General duties of directors

Sections 25 to 29 of the PGPA Act set out the general duties of officers that apply to directors. They are:

- a duty of care and diligence
- a duty to act in good faith and for a proper purpose
- a duty not to misuse their position
- a duty not to misuse information, and
- a duty to disclose material personal interests.

### Consequences of PGPA obligations not being met by directors

In accordance with section 30 of the PGPA Act, the tenure of a director may be terminated if the member contravenes the general duties of officers set out in sections 25 to 29 of the PGPA Act.

### Structure and appointment of the Board

The Board consists of a Chair, and at least five but not more than seven directors.

The Board is established and governed under the *Wine Australia Act 2013* (the **Act**). Each director is appointed by the Minister by written instrument and, other than the Chair, may either be appointed from persons nominated by the Authority Selection Committee (which is constituted under Part IVA of the Act), or can be directly appointed by the Minister. The Chair is appointed directly by the Minister. In accordance with section 17 of the Act, the Board may, at its discretion, appoint a Deputy Chair.

### Term of office

A director that holds office for the period specified in the instrument of appointment which is not to exceed three years. A director can only be re-appointed on one occasion.

### Chair

The Chair has responsibility for:

- leadership of the Board
- efficient conduct of the Board's function
- briefing of directors on key issues
- facilitating the effective contribution of directors
- guiding Board deliberations, free of undue bias
- promoting constructive and respectful relations between directors and between Board and management, and
- promoting the organisation's key values and signature behaviours.

The Chair shall work closely with the Chief Executive Officer (**CEO**), and the Chair and CEO should collectively act as a conduit between the Board and management.

### Commitment and continuing education

Directors are encouraged to participate in an appropriate level of continuing professional education to update and enhance their skills and knowledge to be able to discharge their duties and responsibilities.

### Meetings

The Board will meet regularly, in accordance with a schedule agreed prior to the commencement of each calendar year (usually five times per year). Additional meetings may be held as required to address specific issues.

If the Chair is absent from a meeting, the Deputy Chair will preside over the meeting. If the Deputy Chair is not present, the directors present must appoint one of themselves to preside.

The Chair will review the agenda for each meeting prior to its issue. Any director may require business to be included on the agenda provided the Chair and Secretary have been given prior notice. Directors will receive relevant Board papers a reasonable time before each meeting.

### Quorum

A quorum is constituted by a majority of directors.

### Voting at meetings

In accordance with section 26B of the Act, a question is decided by a majority of the votes of directors' present and voting.

The person presiding at a meeting has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

### Secretary, board papers and minutes

The CEO will appoint a member of the Senior Leadership Team (SLT) as the Board Secretary.

The Board Secretary will attend all meetings of the Board and its Committees and will:

- ensure the Board policy is followed
- co-ordinate the completion and dispatch of the Board agenda and briefing materials
- ensure the compliance obligations of the Board are periodically reviewed including compliance with the PGPA Act and Wine Australia's Statutory Funding Agreement
- ensure that internal policies relating to governance matters are periodically reviewed by the Board
- ensure delegations made under the Act and the Wine Australia Regulations 2018 are periodically reviewed by the Board
- be accountable to the Board, through the Chair, on all governance matters.

The Board Secretary will prepare the minutes of meetings of the Board which are to be approved by the Chair in draft and circulated to all directors. Minutes of meetings of the Board will then be confirmed at the next meeting of the Board and signed by the Chair.

### Attendance by management and advisers

Members of the SLT or other relevant organisations may be invited to attend meetings (or parts of meetings) of the Board or Committees where the Board or Committee considers their involvement of assistance to the consideration of items of business before the meeting. Other employees, external or internal auditors and advisers may also be invited to attend meetings as appropriate.

### Access to independent professional advice

A director may seek independent professional advice (including but not limited to legal, accounting and financial advice) at Wine Australia's expense on any matter connected with the discharge of his or her responsibilities, in accordance with the procedures and subject to the conditions set out below:

- The director must seek the prior approval of the Chair (or if the Chair is absent, from the Deputy Chair, and if both Chair and Deputy Chair are absent, from the director that presided at the most recent meeting of the Board (Presiding Director), or if the Presiding Director is absent, from at least two other directors)
- If the director is the Chair, approval must be sought from the Deputy Chair (or if there is no Deputy Chair, from at least two other directors)
- In seeking such prior approval, the director must provide details of:
  - the nature of and reasons for the independent professional advice to be sought
  - the likely cost of obtaining the independent professional advice, and
  - details of the independent adviser the director proposes to instruct.
- Approval must not be unreasonably withheld.

### Confidentiality

All proceedings of the Board, including board discussions, papers, presentations and other material provided to the Board, must be kept confidential except as required by law or as agreed by the Board.

### Material personal interests and conflicts of interest

Directors must act in the best interests of Wine Australia and exercise unfettered and independent judgment.

Directors must take all reasonable steps to avoid potential or actual conflicts of material personal interests and conflicts of interest.

Directors must disclose, and the Board must deal with, disclosures of material personal interests and conflicts of interest in accordance with *Wine Australia's Material Personal Interests and Conflicts of Interests Policy (Board)*.

### Assessment of the Board's performance

The Board will undertake a review bi-annually of its effectiveness as well as the effectiveness of the Board Committees and individual directors.

The Board may, as it considers appropriate, engage external consultants to conduct a comprehensive review of the effectiveness of the Board, its Committees and individual directors.

### Delegation to Board Committees

In accordance section 11 of the Act, the Board may appoint Committees as it considers appropriate to streamline the discharge of its responsibilities. The Board will establish terms of reference for each Committee setting out the composition, duties and responsibilities of each Board Committee. The Board will appoint a Chair of each Board Committee.

The PGPA Act requires the Board to establish an Audit Committee. The Chair may not be a member of the Audit and Risk Committee.

The Chair of each Committee will report to the Board on activities of the relevant Committee at the next Board meeting. All directors are to receive copies of papers, including minutes, in respect of each Committee meetings and may attend meetings of these Committees regardless of whether they are a member.

The current Board Committees are:

- Research, Development and Adoption Committee
- Audit and Risk Committee
- Marketing Committee, and
- Remuneration Committee.

### Delegated authority to SLT

Pursuant to section 43 of Act, the Board may, by writing under its seal, delegate to a person any of its powers under the Act.

Pursuant to section 115 of the Regulations, the Board may, by writing under its seal, delegate to a person any of its powers under the Regulations (which pertain to the export controls), other than the power suspend or cancel an export licence, or the power of delegation provided under section 115.

The Board should review its delegations biennially to ensure all instruments of delegation are fit for purpose.

It is usual for the Board to delegate authority over the day to day management of the organisation and its operations to the CEO who in turn may delegate to members of the SLT of Wine Australia.

Section 10 of the Act confers a general power of the Board to enter into arrangements with persons, authorities and organisations. This power is delegated in accordance with Wine Australia's financial delegation policy that is summarised below.

Position	Operational expenditure	
	Budgeted	Unbudgeted
Board	> \$500,000	> \$50,000
CEO	\$500,000	\$50,000
SLT	\$100,000	\$10,000

## Liability of Directors

Wine Australia is bound by Division 4 of the PGPA Rule in relation to indemnification of directors.

In accordance with that rule, Wine Australia will ensure directors for liability incurred by them while carrying out their duties, obligations and functions as directors of the Wine Australia except where:

- that liability arises out of conduct involving a wilful breach of duty, arising at common law, in equity, or under the PGPA Act or PGPA Rule, or
- sections 27 or 28 of the PGPA Act are breached.

Section 27 is breached if a director improperly uses his or her position either:

- to gain, or seek to gain, a benefit or an advantage for himself or herself or any other person, or
- to cause, or seek to cause, detriment to the entity, the Commonwealth or any other person.

Section 28 is breached if a director obtains information because they are an official of a Commonwealth entity and improperly uses the information:

- to gain, or seek to gain, a benefit or an advantage for himself or herself or any other person, or
- to cause, or seek to cause, detriment to the Commonwealth entity, the Commonwealth or any other person.

## Appointment and Performance of CEO

The Board is responsible for appointing the CEO and for monitoring his or her performance.

## Risk Management

Wine Australia's Risk Management Policy and Framework:

- explains how risks are identified, assessed and managed at Wine Australia, and
- establishes a framework that underpins the management of risk at Wine Australia.

In accordance with the Risk Management Policy and Framework, the Board must:

- oversee the establishment and implementation of Wine Australia's Risk Management Policy and Framework, including review and endorsement of the policy/framework (including the risk tolerances)
- set the risk tolerance of the organisation by assigning a risk tolerance to each risk category
- review ad hoc reports from the Audit and Risk Committee, management, and auditors to monitor that whether effective risk management and controls have been implemented in accordance with this policy/framework
- review minutes of the Audit and Risk Committee recording its activities pertaining to risk management
- ensure directors can alert the SLT and the Board, as appropriate, to any key risks and opportunities.

## Director Remuneration

Directors are remunerated in accordance with determinations made by the Remuneration Committee under subsections 7(3) and (4) of the Remuneration Tribunal Act 1973. The determination registered on 22 April 2020 is the Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2019, Compilation No. 6.

## Gifts, Benefit and Hospitality

Directors may only accept gifts, benefits and hospitality in accordance with Wine Australia's Gifts, Benefits and Hospitality Policy. The purpose of this policy is to ensure that Wine Australia meets public expectations of integrity, accountability, independence, transparency and professionalism in relation to gifts, benefits and hospitality.

In accordance with the policy, gifts, benefit or hospitality over \$50<sup>1</sup> received by Directors (other than the Chair) must be approved by the Chair. Gifts, benefits or hospitality over \$50 received by the Chair must be approved by the Deputy Chair.<sup>2</sup>

Gifts disclosed by Directors, the CEO, the SLT or the Regional General Managers are published on the Wine Australia website on a quarterly basis by 31 March, 30 June, 30 September and 31 December each year. The Chair must approve the items for publication prior to them being published.

## Review

The Board Charter will be reviewed every three years or as required. Any modifications to or replacements of this Charter must be approved by the Board.

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<sup>1</sup> Noting that it is usual for Wine Australia Directors and employees to be invited to wine sector events, approval is not required for attendance at events such as:

- those hosted by national, state or regional wine associations or organisations to which Wine Australia employees or directors are invited
- those hosted by stakeholders to which Wine Australia employees or directors are invited.

<sup>2</sup> If the Chair is absent approval must be given by the Deputy Chair. If both the Chair and the Deputy Chair are absent, approval must be given by the director that presided over the most recent meeting of the Board (Presiding Director). If the Presiding Director is absent, approval must be given by at least two directors.

## Document history

<b>Document revision history</b>			
<b>Date</b>	<b>Section</b>	<b>Summary of revision</b>	<b>Revision approval</b>
19 February 2020	All	Policy reviewed and very minor amendments made as a result of the external governance review to reflect changes to the Policy Governance and Probity Framework.	4 March 2020 (Board meeting)
21 May 2020	New sections: Gifts, Benefits and Hospitality; Risk Management; Director Remuneration	Amended to address recommendations of Effective Governance to include information about Director remuneration, hospitality and gifts policy and more detailed information on compliance and risk management.	16 June 2020 (Board meeting)
21 May 2020	Secretary, board papers and minutes	Amended to address recommendations of Effective Governance to include greater details about legislative and governance compliance responsibilities and duties.	16 June 2020 (Board meeting)
18 June 2020	References to Audit Committee	All references to Audit Committee updated to Audit & Risk Committee	Made by General Counsel in accordance with Policy Governance and Probity Framework. No approval required.