

Board Charter

1. Overview

National Intermodal purpose

The Australian Government established the Company to facilitate the development and operation of intermodal terminals across Australia to operate as an interconnected network.

Objectives

The Company's constitutional objectives, set by the Commonwealth Government, are to:

- a. facilitate the development of, own and operate an integrated network of open-access intermodal freight terminals in Australia including, where required, import/ export facilities, co-located logistic precincts and warehousing, and ancillary utilities;
- b. attract and optimise private sector investment and innovation in the development, construction and operation of the intermodal terminals, logistic precincts and ancillary facilities;
- c. operate, or ensure the intermodal terminals are operated, as genuine open-access facilities and ensure they are made available on reasonably comparable terms to all rail operators and other terminal users;
- d. ensure the intermodal terminals and co-located logistics precincts operate with the aim of improving national productivity through an efficient supply chain, driving competition across the rail network, encouraging new entrants, increased freight capacity and better rail utilisation with the aim to improve competition and lower freight costs to industry and customers;
- e. operate on commercially sound principles having regard to driving commercial outcomes while achieving best value for money and to preserve its options in respect of ownership and governance arrangements;
- f. upon notification by the Commonwealth Shareholder, provide assistance as required to facilitate a sale of all or a part of the Commonwealth's interest in the Company; and
- g. do all things that are necessary, convenient or incidental to carrying out or for the attainment of these objectives.

2. Purpose

This Board Charter sets out the role of the Commonwealth, and the role and responsibilities of the board of directors (**Board**) of National Intermodal Corporation Limited (**National Intermodal** or **Company**).

This Board Charter has been adopted by the Board and should be read in conjunction with the Company's Constitution (**Constitution**).

In the event of any inconsistency between this Board Charter and the Constitution, the Constitution will prevail.

This Charter has been adopted by the Board and its purpose is to:

- a. promote high standards of corporate governance;
- b. clarify the role and responsibilities of the Board; and

- c. enable the Board to provide strategic guidance for the Company and effective oversight of management.

This Charter also sets out:

- a. the role of the Commonwealth;
- b. the Board composition;
- c. the authority delegated by the Board;
- d. matters reserved for the Board;
- e. Board process and the role of the Chair;
- f. Board conduct;
- g. compliance and reporting obligations; and
- h. review of the performance of the Board.

3. Role of the Commonwealth

The Company is also a wholly owned Commonwealth company and a GBE for the purposes of the *Public Governance, Performance and Accountability Act 2013* (the **PGPA Act**), the *Public Governance, Performance and Accountability Rule 2014* (the **PGPA Rule**) and the Commonwealth GBE Governance and Oversight Guidelines (the **Guidelines**). The requirements of these regulations are reflected in this Charter.

The Company is wholly owned by the Commonwealth. The Commonwealth is represented jointly by the Minister for Communications, Urban Infrastructure, Cities and the Arts and the Minister for Finance (**Shareholder Ministers**).

4. Role of the Board

4.1 Role and Responsibilities of the Board

The Board is accountable to the Shareholder Ministers and has ultimate responsibility for:

- a. the performance of the Company;
- b. the internal governance of the Company;
- c. setting strategic direction, organisational leadership and establishing and maintaining a culture that meets the high standards expected by the public;
- d. ensuring ongoing compliance by the Company with external governance frameworks; and
- e. the timely, accurate and transparent provision of information to the Shareholder Ministers, where such information may affect the value of the Company or may influence government decisions in relation to the Company.

The Board must:

- a. ensure that the Company's activities are conducted so as to minimise any divergence of interests between the Company and the Shareholder Ministers, and that the Company is managed in the best interests of the Company as a whole; and
- b. meet the highest standards of transparency, governance and accountability for corporate and government-owned entities.

The responsibilities of the Board as set out above apply equally in respect of all wholly-owned subsidiaries of National Intermodal.

4.2 Composition of the Board

- a. Directors are appointed by the Shareholder Ministers under a formal letter of appointment setting out the key terms and conditions of appointment.
- b. The Chair is responsible for all communications with the Shareholder Ministers.
- c. The Chair, in consultation with the Board, will provide Shareholder Ministers with recommendations in relation to board composition and membership.
- d. Following consultation with Shareholder Ministers, the Board will develop an Annual Board Plan which includes:
 - i. medium term aims in relation to Board composition, taking into account the strategic objectives of the Company, the Corporate Plan and the Board's last performance assessment;
 - ii. a forecast of likely Board vacancies; and
 - iii. an assessment of the skills, diversity, experience and expertise requirements of the Board.
- e. The Board will assess its performance and the performance of the Chair:
 - i. on an annual basis by internal self-assessment; and
 - ii. unless otherwise directed by the Shareholder Ministers, every two years by an independent external party.

The Chair will provide a report to the Shareholder Ministers in respect of the independent external review.

- f. At least three months prior to a vacancy arising on the Board or in the role of CEO, the Chair must write to the Shareholder Ministers. The Chair may recommend to the Shareholder Ministers that a director be reappointed or may provide the Shareholder Ministers with a shortlist of candidates for Board membership. When identifying potential candidates, the Chair, in consultation with the board, will consider size, composition and desirable competencies of the Board.

4.3 Strategy

The Board is responsible for:

- a. optimising the Company's performance and increasing value by providing leadership and setting the strategic direction of the Company, consistent with the objects established in the Constitution and the Corporate Plan;
- b. setting and approving the strategic direction of the Company with management and monitoring management's implementation of that strategy in an Annual Strategic Meeting; and
- c. monitoring and assessing the performance of the Company against the strategic direction and compliance with legal and regulatory obligations.

The Board will consult with the Shareholder Ministers, including meeting and discussing the Company's strategic direction.

4.4 Safety, Health and Environment

The Board recognises the importance of workplace health and safety issues and is committed to overseeing and setting the policy framework for implementation of strategies to ensure the health and safety of the Company's employees, partners and the community, and the protection of the environment.

4.5 Management

The Board is responsible for:

- a. the appointment and removal of the Chief Executive Officer (CEO), following consultation with the Shareholder Ministers,
- b. assessing the performance of the CEO against predetermined criteria and ensuring that adequate plans for succession exist;
- c. implement and maintain the CEO and senior management succession plans; and
- d. setting the limits of authority for management to commit to new contracts or expenditure.

The Chair will provide written confirmation to the Shareholder Ministers in respect of an annual review of the CEO succession plan.

4.6 Remuneration and Performance of the Chief Executive Officer

The Board is responsible for evaluating the CEO's performance against predetermined criteria annually and retaining a written record of the assessment. The Chair will provide written confirmation to Shareholder Ministers that this process has been completed each year.

4.7 Corporate Governance

The Board is responsible for approving and monitoring the effectiveness of and compliance with the Company's corporate governance framework, policies and procedures, and compliance with legal and regulatory obligations.

The Board will also ensure that the Company has appropriate policies in place on key issues including risk management, external and internal compliance and control, a code of conduct, work health and safety and legal compliance, as well as monitoring adherence to them so that the business is conducted in an open, honest and ethical manner.

The Board will establish processes and practices to manage all risks associated with the Company's operations, and keep the Shareholder Ministers informed of risk management strategies.

4.8 Corporate Plan and Reporting

- a. As required by section 95 of the *Public Governance, Performance and Accountability Act 2013* ("**PGPA Act**"), the Company must prepare and submit a Corporate Plan on an annual basis.
- b. The Board will consult with the Shareholder Ministers, including meeting and discussing the Company's strategic direction.
- c. The Board must:
 - i. submit the Corporate Plan for approval by the Shareholder Ministers in accordance with requirements prescribed by the rules; and
 - ii. monitor the implementation of the Company's strategy and performance against the Corporate Plan.
- d. The Board must annually approve a Statement of Corporate Intent (SCI) for publication.
- e. The Board will adopt a framework for review, authorisation and reporting on National Intermodal's financial position and compliance with the Company's legal and regulatory reporting requirements. The framework will include review and consideration of the financial statements by the Audit and Risk Committee, and a process in relation to the independence and competence of the Company's external auditors.

4.9 Annual Report

The Board must annually approve the Annual Report and submission of the Annual Report to the Shareholder Ministers. The Annual Report must be prepared in accordance with the PGPA Act, the PGPA Rule, the *Corporations Act 2001* (Cth) and any other applicable legislation and guidance issued by the Finance Minister.

4.10 Disclosure to Shareholder Ministers and communications

The Board is responsible for ensuring that the Shareholder Ministers are kept updated on matters of significance to National Intermodal and the requirements of the Commercial Freedoms Framework are satisfied in relation to notifications of significant events and approval for new business initiatives or activity.

The Board is responsible for providing strategic direction and oversight of National Intermodal's Stakeholder Engagement Plan, as amended from time to time, and to ensure that it is effectively and appropriately implemented.

4.11 Induction and continuing development

Each new director will, upon appointment, participate in an induction program. Whilst the Company Secretary is responsible for facilitating the induction program with new directors to assist them in discharging their duties and responsibilities, the Board will work with the Shareholder Departments, as representatives of Shareholder Ministers, to implement and maintain appropriate induction and development programs for directors.

4.12 Board meeting procedures

- a. The Chair, in consultation with the CEO and Company Secretary, is responsible for the conduct of all Board meetings, including briefing all directors in relation to the issues arising at Board meetings and agreeing the agenda of each meeting.
- b. The Board shall meet at regular intervals, and otherwise as often as the directors determine necessary to enable the directors to fulfil their duties and responsibilities to the Company.
- c. The Board will meet in accordance with the proceedings and quorum requirements set out in the Constitution.
- d. Minutes will be prepared for each Board meeting. Draft minutes of each Board meeting will be reviewed by the Chair and then circulated to all directors by the Company Secretary as soon as practicable after the meeting.

4.13 Code of Conduct

The Board must review and oversee the Company's Code of Conduct, as amended from time to time.

4.14 Role of the Chair

- a. The Chair is an independent non-executive director and is appointed by the Shareholder Ministers.
- b. The Chair of the Board is responsible for the leadership of the Board and for the efficient and proper functioning of the Board.

4.15 Delegation of duties and powers

The Board may determine that any responsibilities be delegated by the Board to the Chief Executive Officer or to a Board Committee with the Board retaining the ultimate oversight and decision-making power in respect of the matters delegated.

4.16 Matters reserved for the Board

Matters specifically reserved for the Board:

- a. the appointment and removal of the CEO following consultation with the Commonwealth and evaluation of the CEO's performance;
- b. the establishment of Board Committees, their membership and delegated powers;
- c. the approval of the Charter of each Board Committee including any subsequent amendments;
- d. the appointment, re-appointment or removal of the Company's external auditors;
- e. the recommendation of dividends, following consultation with the Shareholder Ministers;

- f. review and ratification of systems of risk management, accountability, internal compliance and control and legal compliance to see that appropriate compliance frameworks and controls are in place;
- g. review and oversight of the implementation of a code of conduct for Directors, senior Management and all other employees;
- h. monitor and oversee compliance with best practice governance requirements;
- i. oversight of the physical and technological security posture for the Company;
- j. monitoring performance of senior Management, including its ability to deliver the Company's milestones;
- k. the approval of financial statements and financial reporting;
- l. the approval of the Annual Report and any interim report that may be required;
- m. the approval of the Corporate Plan;
- n. the approval of capital expenditure, acquisitions and divestiture decisions where the value and/or nature is such as to fall outside of the delegation of authority framework;
- o. calling a meeting of Directors; and
- p. any other specific matters nominated by the Board from time to time.

4.17 Delegation to Committees

- a. The Board may establish Board committees to which it may delegate any of its powers from time to time, to assist the Board in exercising its authority.
- b. The Board will appoint the members of each committee and the chair of each committee, to be reviewed annually.
- c. The Board committees will meet in accordance with the process and administration requirements set out in the Constitution or the charter for the relevant committee.
- d. The Board has established the Audit and Risk Committee and has agreed that, until such time that the Board establishes any other committees, all other matters will be considered by the Board as a whole.
- e. A separate charter, approved by the Board, will be adopted for each Board committee setting out the composition, role and responsibilities of the committee, which will be reviewed annually.
- f. The Board will consider and adopt, where appropriate, recommendations of the Audit and Risk Committee and of any other Board committees.

5. Role of the Chief Executive Officer

- a. The CEO, together with the senior management team, is responsible to the Board for setting and approving the strategy and overall management of the Company.
- b. The Board may delegate to the CEO any of the powers conferred on the directors under the Constitution and can withdraw or vary any of those powers on any terms and conditions and with any restrictions as the Board thinks fit.

6. Role of the Company Secretary

- a. The Company Secretary is accountable to the Board, through the Chair, on all matters to do with the proper functioning of the Board.
- b. Responsibilities of the Company Secretary include:
 - i. coordination of all Board business, including preparing agendas, in consultation with the Chair, board papers and minutes;
 - ii. distributing Board papers to directors prior to each meeting;
 - iii. promptly drafting minutes of each Board meeting for review by the Chair;

- iv. making Board documents available to directors on request;
 - v. providing governance, administrative, technical and other support to directors; and
 - vi. keeping all statutory and other documents relating to the Board and the Company's administration up to date and lodged with ASIC.
- c. The Company Secretary will attend all Board and Board Committee meetings.
 - d. Each director will have access to the advice, support, and services of the Company Secretary.

7. Board Conduct

7.1 Ethical and Responsible Decision Making

The Board is committed to the promotion of ethical, honest and responsible decision making and the observance of their fiduciary duties.

7.2 Conflicts of interest

- a. All directors must bring an independent judgement to bear on Board decisions.
- b. The Board, in consultation with the Chair, should be satisfied there are sufficient processes in place to manage any real or perceived conflict that derogates from carrying out the role intended with diligence and care, including through the establishment and maintenance of a formal register of directors' interests.
- c. Directors have an ongoing obligation to disclose the nature and extent of any material personal interest they have in any matter which relates to the affairs of the Company, unless permitted to avoid doing so by the Corporations Act.
- d. A director with a material personal interest may not be present when that matter is being discussed or voted on except in accordance with the Corporations Act.
- e. Directors will ensure that no decision or action is taken that has the effect of prioritising their personal interests over the Company's interests.
- f. The Company Secretary will record all notifications of interests both in the minutes of the relevant meeting and in a register which is available for inspection by any director.

7.3 Independence

The Board must regularly monitor the ongoing independence of each director and the Board generally, to ensure that they continue to exercise unfettered and independent judgement. The Board will regularly assess the independence of each Director including by:

- a. obtaining from the Directors, through the Company Secretary, a standing notice of their interests; and
- b. reviewing each Director's standing notice and any other information available in relation to the Director's interests in order to make an informed decision as to the independence or otherwise of that Director.

8. Confidentiality

Confidential information received by directors in the course of their service as a director remains the property of the Company and directors must not disclose or permit the disclosure of such information without the authorisation of the Board, unless required by law.

9. Access to information and independent advice by directors

The Board collectively, and directors individually will:

- a. be provided with accurate, timely and clear information by management to enable directors to effectively discharge their responsibilities and duties;
- b. have access to any information relating to the Company and its subsidiaries; and
- c. have access to:
 - i. management to seek explanations and information in relation to the Company and its subsidiaries; and
 - ii. auditors, both internal and external, to seek explanations and information from them in relation to the management of the Company.

The Board collectively, and each Director individually, may seek independent legal, financial, or other advice as they consider necessary to fulfil their responsibilities and permit independent judgement in decision making. Payment for any such advice required by a director will be paid for by the Company, subject to the Chair providing prior approval.

10. Review of the Board Charter

The Board will review this Board Charter annually at a minimum and amend as required.

11. Approved and Adopted

This Charter was approved and adopted by the Board on 18 May 2022