

Board charter

The Board charter sets out the authority, responsibilities, membership and operation of the Electricity Networks Corporation (“**Western Power**”) Board.

Roles and responsibilities

Board

The Board is the governing body of Western Power with authority, subject to the *Electricity Corporations Act 2005 (WA)* (“**Act**”), to perform the functions, determine the policies and control the affairs of Western Power consistent with its strategic development plan and statement of corporate intent as agreed with the Minister for Energy (“**Minister**”) at the start of each financial year.

The Board’s role is to govern Western Power, rather than to manage it. It is the purpose of senior management to manage Western Power in accordance with direction of the Board.

The Board is responsible for ensuring that management implements approved strategic plans for Western Power; that management acts within prudent commercial principles; and that management is continuously and efficiently striving for above average performance whilst taking account of risk and maximising the long term value of Western Power.

The Board has the final responsibility for the successful operations of Western Power. Without intending to limit this general role of the Board, key areas of responsibility of the Board include the following:

People: engaging and managing staff (the day to day exercise of this power is delegated to the Chief Executive Officer (“**CEO**”)), approving the appointment, remuneration, assessment and, if necessary, removal of the CEO, approving human resources policies, approving remuneration strategies and monitoring succession planning for the CEO’s direct reports.

Strategy and policy: reviewing and approving Western Power’s policies and strategies to ensure the viability and sustainability of Western Power’s business, reviewing the effectiveness of Western Power’s systems, culture and standing, and reviewing and approving major decisions, including capital expenditure proposals.

Budgeting and planning: reviewing and approving capital and operating financial plans and budgets, reviewing and approving non-financial targets and implementation plans and monitoring Western Power’s performance.

Compliance: ensuring the proper conduct of due diligence on internal processes using audit resources and reviewing processes to ensure their effectiveness in the management of risk.

Statutory responsibilities: ensuring compliance with Western Power’s responsibilities under the Act and other statutes.

Board effectiveness: reviewing and assessing Board performance to ensure that directors, committees and processes are effective.

Delegation of powers: delegating its powers, where appropriate.

Governance: establishing committees to assist in the performance of the Board’s responsibilities. The Board has established two committees - the People & Performance Committee and the Finance & Risk Committee, both of which operate under terms of reference approved by the Board.

Under the Act, the Board must, after consultation with the Commissioner for Public Sector Standards, prepare and issue a code or codes of conduct setting out:

- minimum standards of conduct and integrity to be observed by members of staff¹; and
- minimum standards of merit, equity and probity applicable to management of staff².

The Board must also prepare, and comply with, a joint policy on staff transfers³.

Board Chair

The chair's role is a key one within Western Power. He or she is considered the 'lead' director and utilises experience, skills and leadership abilities to facilitate the governance processes.

In accordance with the Act⁴, the Governor will appoint the Chair and Deputy Chair from amongst the non-executive directors.

All expenses of the Chair will be approved by the Deputy Chair. The Chair will authorise the expenses of all other directors and the CEO, subject to any delegation of authority in force from time to time.

The specific roles of the Board Chair include:

- chairing Board meetings – if the Chair is not present, or available, the Deputy Chair will assume this role⁵; if the Deputy Chair is not present, or available, a director chosen by a majority of directors present will assume this role;
- establish the agenda for Board meetings in consultation with the CEO;
- in consultation with the CEO, be Western Power's primary point of liaison with the Minister and the WA State Government generally – the CEO (or his or her nominee), will undertake all other public relations activities;
- be the major point of contact between the Board and the CEO;
- be kept fully informed of current events by the CEO on all matters which may be of interest to directors;
- regularly review with the CEO and such other senior executives as the CEO recommends, progress on important initiatives and significant issues facing Western Power;
- provide mentoring for the CEO;
- chair the CEO evaluation process through the People & Performance Committee;
- commence the annual process of Board and director evaluation; and
- in accordance with the Act, have a casting vote.

The Chair is subject to the same duties as all other directors, including in relation to declaring material personal interests and not being present during any Board deliberations relating to, or voting in respect of, any such matter.

Non-executive directors

Western Power's directors have ultimate responsibility for the overall successful operations of Western Power. In line with their duties under the Act, their responsibilities relate to:

- Western Power's strategic direction and monitoring performance;
- financial operations and solvency;

¹ See [section 31 of the Act](#).

² See [section 21 of the Act](#).

³ See [section 23 of the Act](#). The policy must be prepared jointly with each of Electricity Retail Corporation ("Synergy"), Electricity Generation Corporation ("Verve") and Regional Power Corporation ("Horizon") and must be approved by the Minister. The joint policy must provide for members of staff of the 4 corporations and of their subsidiaries to have the opportunity to transfer between the corporations and their subsidiaries: (a) for temporary or permanent employment; (b) on secondment or temporary deployment; or (c) for training, without loss of entitlements.

⁴ See [schedule 1, clause 4 of the Act](#). The appointments are made on the nomination of the Minister.

⁵ Ibid, sub-clause 4(3).

- all matters as prescribed by law, including (but not limited to) safety and the environment; and
- all major policy issues, including (but not limited to) industrial relations and quality assurance.

More complete details of the role of individual non-executive directors are contained in the Board's code of conduct.

The role of director is not required to be performed on a full time basis⁶.

CEO/Managing Director

The Board has the power to appoint and remove the CEO, and to fix and alter the CEO's terms and conditions of service. However, the Board must obtain the concurrence of the Minister before it exercises these powers.

Subject to the control of the Board, the CEO is responsible for - and has the necessary powers to administer - the day-to-day operations of Western Power in accordance with the strategy, policies and programmes approved by the Board. Western Power will be managed to achieve the goals agreed and endorsed by the Board and, to the extent applicable, by the Minister.

The Chief Executive Officer's responsibilities include:

- developing, with the Board, a consensus for Western Power's vision and direction;
- constructing, with Western Power's management team, programmes to implement this vision;
- appointing the senior management team and making recommendations to the Board regarding their remuneration;
- endorsing the terms and conditions of appointment of all other staff members;
- providing strong leadership to – and effective management of – Western Power in order to:
 - encourage cooperation and teamwork;
 - build and maintain staff morale at a high level; and
 - build and maintain a strong sense of staff identity with – and a sense of allegiance to – Western Power;
- ensuring a safe workplace for all personnel;
- ensuring a culture of compliance generally;
- carrying out the day to day management of Western Power;
- forming such committees and working parties from time to time to assist in the orderly conduct and operation of Western Power;
- keeping the Board informed, at an appropriate level, of all of Western Power's activities; and
- ensuring that all personnel act with the highest degree of ethics and probity.

The Board has approved a general delegation of financial authority⁷. The CEO may authorise all expenditures in accordance with that delegation, or any other delegation by the Board, subject to:

- All CEO compensation, outside of normal monthly remuneration, must be authorised by the Board Chair.
- All business-related expenses paid to the CEO must be authorised or ratified by the Board Chair.
- Whilst the Board (via the People & Performance Committee) must approve the remuneration of employees reporting to the CEO, the appointment of individuals to specific management roles is the responsibility of the CEO.

Executive Committee

The Managing Director has established an Executive Committee to assist the Managing Director to lead and manage Western Power. The Executive Committee is an advisory body and has no authority

⁶ See [schedule 1, clause 2\(4\) of the Act](#).

⁷ Board resolution BD/108/2006, dated 18/12/2006 (see annexure "A").

delegated by the Board. Its members comprise each person designated an “Executive Officer” for the purposes of the Act⁸.

The Executive Committee functions and operates within guidelines set out in the Executive Officers’ governance handbook⁹.

General Counsel & Company Secretary

Western Power’s General Counsel & Company Secretary is charged with facilitating the company’s corporate governance processes and providing general legal counsel. In so doing, he, or she:

- is accountable to the Board (through the Board chair) on all governance matters; and
- holds primary responsibility for ensuring that the Board’s processes and procedures run efficiently and effectively.

In addition, while compliance issues are identified and monitored through the Finance & Risk Committee, the General Counsel & Company Secretary is charged with the responsibility of guiding and implementing Western Power’s compliance programme.

The appointment and removal of the General Counsel & Company Secretary is matter for the CEO, subject to ratification by the Board. It is envisaged that the General Counsel & Company Secretary will hold appropriate legal qualifications.

All directors have direct access to the General Counsel & Company Secretary, whose responsibilities include:

- overseeing Western Power’s compliance programme and ensuring that all of Western Power’s legislative obligations are met;
- ensuring that notice of all meetings is given, and the agenda and Board papers are prepared and distributed to directors, in accordance with the Board’s rules and procedures;
- recording, maintaining and distributing the minutes of all Board, and all Board committee, meetings as required;
- providing counsel for corporate governance principles and individual director liability; and
- any other services that the CEO, or the Board Chair, may require.

Duties of directors

Schedule 2 of the Act details the duties that must be observed by directors of Western Power. These duties are similar to the duties imposed on directors of public listed companies.

The duties require each director:

- to act honestly in the performance of his or her functions;
- to exercise reasonable care and diligence in the performance of his or her functions;
- not to make improper use of information acquired by virtue of his or her position; and
- not to make improper use his or her position.

In addition, a director has the same fiduciary relationship with Western Power and has the same duties to Western Power to act with loyalty and in good faith as a director of a company under the Corporations Act has with and to the company. These duties are enforceable by the Minister and not otherwise¹⁰.

The Act also contains detailed provisions relating to conflicts of interest¹¹. In summary, directors must:

⁸ See [section 20 of the Act](#).

⁹ [DMS #3447852](#).

¹⁰ This duty is duplicated by [section 5 of the Statutory Corporations \(Liability of Directors\) Act 1996 \(WA\)](#), which also applies to Western Power’s directors. The only difference in this regard is that the latter duty can also be enforced by the Attorney-General.

¹¹ See [schedule 2, division 5 of the Act](#). See also Western Power’s conflict of interest policy ([DMS: # 4040184](#)).

- notify the Board as soon as possible after becoming aware of a material personal interest in a matter affecting Western Power;
- not be present while the Board is considering a matter affecting Western Power, in respect of which that director has a material personal interest; and
- not vote on a matter affecting Western Power, in respect of which that director has a material personal interest.

The Board may resolve that it is satisfied that a specified interest should not disqualify a director from considering, or voting, in respect of a particular matter.

A more detailed discussion of the requirements of these statutory duties is contained in the '*Western Power guide to directors' & executive officers' statutory duties and responsibilities*'¹².

Board structure

Under the Act, Western Power's Board must comprise not less than 4, nor more than 6, persons appointed as directors by the Governor of Western Australia on the nomination of the Minister¹³.

The Minister may make nominations only after consultation with the Board and no member of staff, other than the CEO, may be a director. The CEO – if a director – cannot be appointed as the Board Chair or Deputy Chair¹⁴.

Whilst subject to the ultimate decision of the Governor (on the recommendation of the Minister in accordance with the Act), it is anticipated that the Board will contain the relevant blend of expertise in:

- accounting and/or finance;
- business;
- human resources/change management;
- electricity transmission and/or distribution (including the regulatory environment);
- legal skills (especially when not present in the company secretary role); and
- CEO-level experience.

Independence of non-executive directors

As the structure and composition of the Board is prescribed by the Act, and appointments are made by the Governor of Western Australia on the nomination of the Minister, the independence of each non-executive directors is not a matter that is able to be determined by the Board.

However, the Board will have regard to issues of independence as detailed in the following standards in making recommendations to the Minister regarding nominations for non-executive directors, with the intention that a majority of the Board will be independent directors.

Director independence standards

In these standards, a reference to "Western Power", includes any subsidiary of Western Power, as well as the former Western Power Corporation.

In judging whether a director is an "independent director", the Board will have regard to whether or not:

¹² [DMS: #3357312](#).

¹³ See [section 8 of the Act](#).

¹⁴ See [schedule 1, sub-clause 4\(2\) of the Act](#).

- The director is not, and has not within the past 3 years:
 - been employed by Western Power;
 - been a principal of a material professional adviser, or a material consultant, to Western Power, or been an employee materially associated with services provided by such adviser or consultant; or
 - been affiliated with, or employed by, a present or former auditor of Western Power.
- The director is a material supplier, or customer, of Western Power, or is an officer, or employee, of, or otherwise associated with, a material supplier, or customer.
- The director has received any remuneration from Western Power, other than directors' fees.
- The director has a material contractual, or other material relationship, with any Western Power subsidiary, other than as a director.
- The director is free from any other interests and any business, or other relationships, that could, or could be perceived to, interfere with the director's unfettered and independent judgment and ability to act in the best interests of Western Power.

These standards reflect appropriate independence requirements as recommended by the ASX Corporate Governance Council in the most recent edition of its ASX Corporate Governance Principles and Recommendations (**ASX Principles**) (version 2, August 2007). The fundamental premise of the standards is that an independent director must be independent of management and free of any business, or other relationship, that could materially interfere with – or could reasonably be perceived to interfere with – the exercise of his, or her, unfettered and independent judgment. Version 2 of the ASX Principles also removed length of tenure as a criterion affecting a director's independence¹⁵.

All directors of Western Power are subject to the statutory duties and prohibitions regarding conflicts of interest¹⁶.

Directors are required to disclose family ties, or cross directorships, that may be relevant in considering continuing independence.

The Board will conduct a regular review of the independence of each of the directors, based on information provided to it by the directors. Directors are expected to volunteer information as and when changes occurred.

Western Power will identify those directors of the Board considered to be independent in its annual report.

Appointment and retirement of directors

Where a vacancy occurs in the membership of the Board, it may recommend a candidate to the Minister¹⁷.

A director holds office for such period, not exceeding 3 years, as is specified in the instrument of his or her appointment, and is eligible for reappointment¹⁸. Periods of appointment will be structured to ensure that approximately one-third of directors retire each year¹⁹.

A director may resign from office by notice in writing delivered to the Minister. The Governor may at any time remove a director, including the Board Chair, or Deputy Chair, from office and is not required to give any reason for doing so²⁰.

Unless a director resigns earlier or is removed from office, he or she continues in office until his or her successor comes into office, even if the period for which he or she was appointed has expired²¹.

¹⁵ See People & Performance Committee resolution no. 70/2008/PPC dated 21/10/2008.

¹⁶ See [schedule 2 of the Act](#). See also Western Power's conflict of interest policy ([DMS: # 4040184](#)).

¹⁷ See [sub-section 8\(5\) of the Act](#).

¹⁸ See [schedule 1, clause 2\(1\) of the Act](#).

¹⁹ Ibid, sub-clause 2(2).

²⁰ Ibid, clause 3.

While the regular use of alternate directors is not envisaged as a feature of Western Power's Board, the Board recognises that the Act makes provision for the Minister to make such appointments²².

Board meetings and procedure

The Board meets formally on a regular basis to address the strategic issues of Western Power's business. Special meetings of the Board may also be convened by the Chair or any 2 directors to address immediate issues that may arise.

The Board keeps an accurate record of proceedings at each meeting of the Board and of each resolution passed by the Board.

The Board has adopted a set of rules and procedures to govern all proceedings of the Board and its committees. As a general rule, agendas and supporting papers for Board and committee meetings are distributed 7 days prior to the appointed meeting date.

In order to provide an even distribution of work over the year, the Board will adopt a rolling twelve-month Board calendar²³. Included will be all scheduled Board and committee meetings, as well as major corporate and Board activities to be carried out in the month in question.

Board committees

The Board may appoint such committees of directors as it thinks fit²⁴.

Two committees assist the Board in the discharge of its responsibilities and are governed by their respective terms of reference, as approved by the Board. These are:

- the People & Performance Committee; and
- the Finance & Risk Committee.

The functions of each of these committees are described in more detail in their respective terms of reference.

Board performance and evaluation

Western Power has processes in place to evaluate the performance of the Board, its committees and directors. The Board regularly reflects on its own performance to improve the effectiveness of the Board and that of each director.

The Board has established a formal induction process to assist directors' understanding of the business. The process includes a collation of key and strategic documentation, the opportunity to visit key installations/sites and access to operational briefings from management. The induction material is accessible to all directors through the Board Email and Electronic Documentation System (BEEDS).

The People & Performance Committee is responsible for creating a framework and process to assess the effectiveness of the Board, its committees and directors, with a view to ensuring that performance accords with best practice. The review can be:

- qualitative, quantitative, or a mixture of both;
- formal, or informal
- concentrated on reviewing the Board as a whole, or directors individually;
- self-administered, administered by the Board Chair/fellow directors, or administered by an independent expert; or

²¹ Ibid, sub-clause 2(3).

²² Ibid, clause 5.

²³ See annexure "E".

²⁴ See [section 13 of the Act](#).

- focussed internally on the directors, or involve the wider body of corporate stakeholders including, but not limited to, customers, suppliers, employees and the community.

The findings of the review will be tabled at the first meeting after 1 October (i.e. the reviews will be undertaken in the second half of the calendar year). The Board Chair will action this evaluation, obtaining any assistance required.

It is envisaged that all relevant changes in Board policies and processes will be integrated into this charter. The effectiveness of the Board and its committees, including their terms of reference, are also reviewed periodically and updated as required, with changes submitted to the Board for approval.

Remuneration of directors

Non-executive directors

A non-executive director is paid from the funds of Western Power such remuneration and allowances as are determined in the case of that director by the Minister²⁵. Remuneration is not paid to a non-executive director who holds a full time office, or position, that is remunerated out of moneys appropriated by Parliament.

Each director is reimbursed for usual and ordinary expenses incurred in connection with Board service and meeting attendance.

CEO/Managing Director

The Board has the power to fix and alter the CEO's/Managing Director's terms and conditions of service, including his or her remuneration. However, the Board must obtain the concurrence of the Minister before it exercises this power²⁶.

Director development

In order to continually improve Board performance, all directors are encouraged to undergo continual professional development.

Specifically, where skills gaps are identified, directors will be provided with resources and training to address them. Directors are also encouraged to undertake self-development where appropriate.

A budget for director development activities is included in the Board budget maintained by the General Counsel & Company Secretary. Directors who propose to undertake a development activity at Western Power's expense should approach the Board chair.

Director selection & induction

The People & Performance Committee, according to criteria suggested by the Board, will identify potential candidates for nomination as a director²⁷. These criteria are contained in this charter²⁸ and are subject to change if endorsed by the Board.

Each new director will receive a formal letter of appointment that details:

- terms of appointment;
- remuneration and review policy;

²⁵ See [section 11 of the Act](#).

²⁶ See [section 14 of the Act](#).

²⁷ Board appointments are made by the Governor, on the nomination of the Minister. However, the Board make recommend candidates for nomination to the Minister (cf. [section 8 of the Act](#)).

²⁸ See page 8.

- access to information;
- authority to engage outside specialists for advice;
- insurance coverage; and
- expectations of the Board.

In addition, senior management, working with the Board, will provide an orientation programme for new directors in order to assist them in fulfilling their duties and responsibilities. The programme will include discussions with the CEO, current Board members, executives, and the internal and external auditors, together with the provision of the following written material:

- a copy of the corporate governance framework and the directors' governance handbook;
- details of past, recent and likely future developments relating to the Board, including anticipated regulatory changes;
- background information on, and contact information for, other Board members, as well as for key contacts within Western Power (including an outline of their roles and capabilities);
- a copy of Western Power's most recent strategic development plan, statement of corporate intent and business plan; and
- an analysis of Western Power, including core competencies of the business, an industry background briefing, details of past financial performance, current financial structure and any other important operating information.

Accepting positions with other companies

Non-executive directors are entitled to accept positions with other companies. However, directors must observe their duties as set out in the Act, the Board code of conduct and general law, in accepting any position with another company and in particular, those duties relating to conflicts of interest.

Under the Act, if a public service officer is a director:

- his or her duties as a director are to prevail if a conflict arises between those duties and his or her other duties as a public service officer; and
- he or she does not have any immunity of the Crown in respect of the duties and liabilities imposed on directors by the Act²⁹.

There are also obligations under clauses 12 and 13 of Schedule 2 of the Act to notify relevant, material personal interests as soon as possible after they come to the director's knowledge and not to participate in the consideration or voting on a matter in which the director has a material personal interest (subject to certain exceptions).

Ministerial communication

Western Power's key stakeholder is Western Power's shareholder, the Minister, and therefore the Government of the day.

Western Power has established a formal protocol³⁰ to ensure that the most comprehensive levels of governance apply to communication with the Minister and his or her office. The protocol specifically reflects the particular relationship that exists between a corporate government trading enterprise and the Government.

²⁹ See [section 12 of the Act](#).

³⁰ [DMS #2802944](#).

The protocol recognises that the Minister must receive information to enable the Minister to discharge the Minister's duties. Further, it seeks to ensure that the information will be factual, timely and reflect the best available information at that time.

Western Power has quarterly and annual reporting obligations to the Minister under the Act³¹.

Under the Act, the Board and the Minister, at the request of either, must consult together, either personally or through appropriate representatives, in relation to any aspect of the operation of Western Power³². The Act also provides that the Minister is entitled to have access to information in the possession of Western Power and where information is in, or on a document, to make and retain copies of that document³³.

Strategic development

Each year the Board must prepare and submit to the Minister (for the Minister's agreement):

- a draft strategic development plan for Western Power to cover a forecast period of 5 years (or a lesser period agreed with the Minister), which must set out economic and financial objectives and operational targets and how those objectives and targets will be achieved³⁴; and
- a draft statement of corporate intent, which covers a one year forecast period and must be consistent with the strategic development plan³⁵. It must specify certain matters including performance targets, an outline of objectives, dividend policy, accounting policies and the nature and extent of community service obligations that are to be performed.

Within 14 days of the Minister agreeing to a draft statement of corporate intent, the Minister must cause a copy of it to be laid before each House of Parliament or, if a House of Parliament is not sitting and the Minister is of the opinion that it will not sit within the 14 day period, submit a copy to the Clerk of that House.

It is expected that all papers requiring significant resource decisions will address how the decision is related to the agreed strategy.

Service, advice and contacts

The Board recognises that a key component of directorial duties is providing a sounding board for CEO ideas and challenges. In recognition that the CEO-Board relationship is critical to effective corporate governance, Western Power's directors will give frank and honest advice to the CEO.

Similarly, all advice will be constructive in nature and provided in a positive manner. Where appropriate, directors will recommend alternative advisers if they do not feel adequately trained to assist.

Western Power's directors are also expected, where appropriate, to employ business contacts in furthering the interests of the company. Similarly, directors are expected to actively promote Western Power in external interactions.

³¹ See [Part 5, Div. 3 of the Act](#).

³² See [section 115 of the Act](#).

³³ See [section 116 of the Act](#).

³⁴ See [Part 5, Div. 1 of the Act](#).

³⁵ See [Part 5, Div. 2 of the Act](#).

Monitoring

A fundamental function of the Board is to monitor the performance and compliance of Western Power. With this general principle in mind, the Board is charged with monitoring both financial and non-financial key performance indicators (KPIs).

The Board will receive a monthly corporate performance report including the following:

Financial KPIs

- Balance sheet
- Revenue & expenses
- Cashflow
- Debt management
- Capital expenditure

Non-financial KPIs

- Safety
- Reliability
- Transmission and distribution CAPEX and maintenance
- Staff numbers
- Works programme
- Customer service
- Compliance

Compliance

As a government trading entity, integrity underpins Western Power's corporate value of '*earning trust*'. Organisations of integrity do not breach the law, or ethical standards.

It is part of the philosophy of Western Power that it will at all times comply with the law as it applies to Western Power and will demonstrate ethical behaviour³⁶. Western Power believes that ensuring that everyone in the company complies with the law is simply a part of good management.

Every officer, contractor, employee, agent and supplier of Western Power is required to comply with all aspects of the law and to act ethically, at all times.

No person who wilfully breaches the law and is prosecuted will receive support from Western Power.

The Finance & Risk Committee is charged with monitoring regulatory and legislative compliance within Western Power. Aspects of this process may be delegated. In particular, the General Counsel & Company Secretary will design and implement Western Power's legislative compliance framework. He, or she, will work in conjunction with relevant line managers to ensure that all areas of compliance are covered within Western Power. The implemented processes will be in accordance with AS: 3806-2006.

Each Finance & Risk Committee meeting will receive a report from the General Counsel & Company Secretary regarding compliance exceptions. He, or she, may be required to elaborate on any relevant aspects of this report. The compliance report will contain statements that Western Power is meeting its requirements under the various requirements, or legal responsibilities for directors, or notify directors of any issues of concern.

In addition, the General Counsel & Company Secretary will provide the Finance & Risk Committee with a quarterly report of substantial litigation and claims involving Western Power.

³⁶ Western Power's code of conduct ([DMS #3005277](#)) and its integrity & ethics and legislative compliance policies ([DMS #3004466](#) and [DMS #3443054](#), respectively) reinforce this expectation.

Risk management

The CEO is charged with implementing appropriate risk systems within Western Power. Aspects of this process may be delegated.

The implemented processes will be in accordance with AS/NZS: 4360-2004. The Board will receive a quarterly risk report, which will contain statements that notify directors of any issue, or concern. Areas for coverage include:

- asset risk
- technological obsolescence
- business interruption
- physical risks, including computer failure, fire, natural disaster and employee health and safety
- environmental risks
- legislative risks

It is expected that all papers requiring significant resource, or policy, decisions will address how the decision is related to any identified risk issues. The Board will review all major strategies and purchases for their impact on the risk facing Western Power and take appropriate actions.

Similarly, Western Power will review all aspects of its operations for changes to the risk profile on a regular basis and reports will be provided to the Board, via the Finance & Risk Committee.

Annual accounts certification

Whilst currently there is no statutory requirement to do so³⁷, as a matter of course, the Board requires the following written certifications by the Chief Executive Officer and Chief Financial Officer as part of the approval of Western Power's annual financial statements:

- Western Power's financial statements present a true and fair view, in all material respects, of the company's financial position and operational results and are in accordance with relevant accounting standards; and
- the statement given in the preceding paragraph (with regard to the integrity of the financial statements) is founded on a sound system of risk management and internal control and that the system is operating effectively in all material respects in relation to financial reporting risks.

Risk certification

In accordance with ASX Principle 7.2, the Board requires management to design and implement a risk management and internal control system to manage Western Power's material business risks and report to it on whether those risks are being managed effectively. Accordingly, the Board expects management to give it an annual assurance that effective risk management processes in relation to material business risks are in place.

Evaluation of the CEO & other senior executives

The CEO is the key employee of Western Power, in general, and of the Board, in particular. As such, a special relationship exists between the CEO and the Board.

The People & Performance Committee is charged with establishing the framework and process for reviewing the performance of the CEO and other senior executives, and making recommendations to the Board accordingly. The Board Chair will coordinate the evaluation process in respect of the CEO and the CEO coordinates the evaluation process in respect of his direct reports.

Evaluation of the CEO and other senior executives will utilise both quantitative and qualitative measures. In the case of the CEO, evaluation will be judged against the approved strategic plan and

³⁷ The Act does not contain a provision in the terms of section 295A of the *Corporations Act*.

the corporate and personal KPIs established for the CEO on an annual basis. In the case of other senior executives, the evaluation will be judged against corporate, divisional and personal KPIs established for the respective senior executives on an annual basis and approved by the People & Performance Committee.

CEO evaluation will occur annually at the August meeting of the People & Performance Committee, and the results will be tabled for discussion at the Board meeting in that month. Similarly, evaluation of the CEO's direct reports occurs annually at this time with a report by the CEO provided to the People & Performance Committee.

It is anticipated that the Board and the CEO will discuss and agree on goals (both quantitative and qualitative) for the upcoming year in the June meeting of the Board (after initial review by the People & Performance Committee). Similarly, the CEO and his direct reports will discuss and agree on goals for the coming year at this time with a report to be made to the People & Performance Committee.

The People & Performance Committee will prepare a brief report for the full Board after discussion with the CEO. However, the performance of the CEO is a matter for full Board deliberation, and is a separate agenda item at the relevant Board meeting.

Delegation of authority

Directors are responsible for any delegations of their responsibilities with regard to corporate operations. As such, the Board decides what Western Power matters are to be delegated, either to specific directors, or to management³⁸. In addition, the Board outlines what controls are in place to oversee the operation of these delegated powers.

As a consequence, individual directors have no individual authority to participate in the day-to-day management of Western Power, including making any representations, or agreements, with related corporations, suppliers, customers, employees, or other parties, or organisations.

The exception to this principle occurs where the Board, by resolution, expressly delegates an authority to a director individually. In addition, it is recognised that the Managing Director will carry significant delegated authority by virtue of his, or her, management position. Committees and their members require specific delegations from the Board as a whole and these will be contained in each committee's respective terms of reference.

Decision-making process

The decision-making process and delegations of a board are fundamental to the corporate governance process. In the case of Western Power, the decision-making process is set out in the Act. Questions arising at Board meetings are decided by a majority of votes. If there is an equality of votes, the Board Chair has a casting vote³⁹.

Specific delegations

In general, the Board retains all powers and authority required to carry out Western Power's business effectively and efficiently, except where specific authority is delegated to the CEO and Board committees.

In order to facilitate the day-to-day operations of Western Power, the Board has delegated its authority to the CEO and his, or her, senior executives as specified in the delegation of financial authority issued under section 71 of the Act⁴⁰. Senior executives who propose to delegate their authority to management 'direct reports' can do so with the prior approval of the CEO. However, such delegations can only be to a level within the delegated authority of each senior executive manager.

³⁸ The power of delegation is contained in [section 71 of the Act](#).

³⁹ See [schedule 1, sub-clause 6\(5\) of the Act](#).

⁴⁰ A copy of the delegation is included at annexure "A" of this handbook.

Although the Board has delegated its financial authority to management, as above, the following decisions must be referred to the Board for approval:

- Western Power's annual works programme⁴¹;
- access arrangement proposals in accordance with the *Electricity Networks Access Code*;
- any transaction not covered in the annual works programme where the amount involved exceeds \$5M⁴²;
- budgets (including detailed background papers);
- remuneration for the CEO and his, or her, direct reports (the People & Performance Committee has delegated authority to determine the latter); and
- all policies (new or changed) requiring Board approval in accordance with Western Power's policy development guidelines⁴³.

Actions for advice, or noting

The following should be reported to the Board, or appropriate Board committee, for advice/noting:

- any potential substantial claim⁴⁴ involving Western Power;
- all insurance matters; and
- all important business activities and matters, and all recognisable risks.

Execution of documents

The Board has issued a delegation of authority to sign agreements and other documents on behalf of Western Power⁴⁵. It also deals with authority to operate Western Power's bank accounts. A copy of this authority is also included at annexure "A" to this handbook.

Where a document, or agreement, is required to be executed under Western Power's common seal, the Act prescribes the process for witnessing execution⁴⁶. The Board has authorised the General Counsel & Company Secretary to apply the common seal to documents relating to the ordinary and usual business of Western Power, subject to providing the Board with a detailed report of all such document executions at each Board meeting⁴⁷.

Director protection

As a general rule, a director has two key areas of protection – the right to information and the ability to insure against specific risks of being a director. The Act also provides limited protection for directors who have acted honestly in the discharge of their duties, but have nonetheless been subjected to a claim of breach of duty⁴⁸.

Accordingly, the following measures of board member protection will apply.

Information-seeking protocol

Each director has a right of access to all relevant Western Power information and to Western Power's executive officers. Directors will adhere to the following protocol when seeking information:

1. Approach the CEO to request the required data.

⁴¹ See Board resolution BD/40/2006, dated 19/05/2006 and amended on 04/08/2006.

⁴² Ministerial approval is required for transactions where the value exceeds \$20M – see [section 68 of the Act](#).

⁴³ See Board resolution BD/36/2006(iii), dated 01/05/2006.

⁴⁴ The term "substantial" means any claim, or counterclaim, by or against Western Power where the amount involved exceeds \$250,000, or irrespective of the amount involved, there is a reasonable prospect of reputational damage resulting from the case, e.g. by adverse media, including all pending and anticipated prosecutions.

⁴⁵ Board resolution BD/37/2007, dated 31/08/2007.

⁴⁶ See [sub-section 135\(2\) of the Act](#).

⁴⁷ See Board resolution BD/09/2006, dated 24/03/2006.

⁴⁸ See [schedule 1, Division 4](#) of the Act. [Section 120](#) of the Act also provides protection where anything is disclosed as part of various reporting obligations under the Act, or anything is done, or omitted to be done, in response to a Ministerial direction.

2. If the data is not forthcoming, approach the Board Chair.
3. If the request remains unresolved, write a letter to all Board members and the CEO detailing the information required, the purpose of the information, and who the director intends to approach in order to obtain information.
4. As a last resort, employ of the provisions of the Act.

Access to Board papers and legal advice

The General Counsel & Company Secretary holds a complete set of board papers on behalf of each director (individually) for a period of at least 7 years.

Directors are entitled to access the papers for the period when they were a director on request, even if they have ceased to be a director.

Each director may, subject to prior consultation with the Chair, seek independent professional advice at Western Power's expense. In the case of the Board Chair, he or she will consult the chair of the People & Performance Committee prior to seeking independent professional advice. A copy of any independent advice sought by a director will be made available to all other members of the Board. All documentation containing, or seeking, legal advice in this regard will clearly state that the legal advice is sought both in relation to Western Power and to the directors in their personal capacity.

In addition, Western Power will execute a deed of indemnity⁴⁹ and access in favour of each director individually.

Insurance

Western Power will:

- provide each director with a copy of the directors' and officers' (D&O) policy and any changes to that policy; and
- maintain each director's D&O insurance for 7 years from the date at which he, or she, ceased to be a director.

This commitment is also contained in the deed of indemnity and access referred to above.

Public interest disclosures

Western Power is committed to the aims and objectives of the Public Interest Disclosure Act 2003 (WA) and accordingly, has adopted a "Whistleblowers Policy"⁵⁰.

The purpose of the policy is to help detect and address misconduct, help provide an environment in which persons feel able to raise issues of concern to them and Western Power and help protect people who report misconduct in good faith.

⁴⁹ The indemnity is subject to the limitations contained in the Act – see [schedule 2, clause 15 of the Act](#).

⁵⁰ [DMS #3442810](#).