

## Standard Operating Procedures

### Board & Committees - Meetings, Minutes and Resolutions

|                   |   |
|-------------------|---|
| <b>Scope</b>      | <p>This SOP details the processes that GTA will follow to:</p> <ul style="list-style-type: none"> <li>ensure that the conduct of meetings and the format of minutes and resolutions are common across all meetings of the GTA Board, Board subcommittees, Technical Committees and their subcommittees.</li> </ul>  |
| <b>Purpose</b>    | <p>The procedures to be adopted in the conduct and reporting of meetings are determined, in order of importance, by the:</p> <ol style="list-style-type: none"> <li>statutory provisions detailed in the Corporations Act;</li> <li>GTA Constitution; and</li> <li>Board and Committee Charters.</li> </ol> <p>GTA conducts a secretariat function for the:</p> <ol style="list-style-type: none"> <li>GTA Board;</li> <li>subcommittees of the GTA Board;</li> <li>GTA Technical Committees;</li> <li>subcommittees of the GTA Technical Committees; and the</li> <li>National Working Party on Grain Protection.</li> </ol> <p>The secretariat, working in conjunction with the respective meeting chairs, will use common processes and documentary templates and formats across all these activities.</p>   |
| <b>Procedures</b> | <p><b>1.1 Document templates</b><br/>       Best practice templates (attached) - published by the Governance Institute of Australia, 2014 will be adopted for all meetings.</p> <ul style="list-style-type: none"> <li>Best Practice Agenda - 2014</li> <li>Good Governance Guide - Recording minutes of directors' meetings</li> <li>Best Practice Minutes -2014</li> <li>Best Practice Action Items (Matters arising) 2014</li> </ul> <p><b>1.2 Distribution of papers</b><br/>       The Secretariat will distribute the meeting papers to Directors/Members five working days prior to the meeting.</p> <p>Attached:</p> <ul style="list-style-type: none"> <li>Good Governance Guide - Board papers</li> </ul> <p><b>1.3 Resolutions</b><br/>       The Chair, in consultation with the Board/Committee will formulate resolutions that will then be put to the Directors/Members and for the Directors/Members to vote on.</p> <p>It is not necessary to the decision making process that the resolutions be formally proposed and seconded, except in the case of meetings of the members of GTA, i.e. at a GTA AGM.</p> <p><b>1.4 Examples of formats for recording resolutions</b></p> <p><b>Minutes – last meeting</b></p> <p><b><i>The Committee resolved:</i></b></p> <ul style="list-style-type: none"> <li><i>that the minutes as tabled are approved as an accurate record of the proceedings of the Meeting held on (insert date of the previous meeting).</i></li> </ul> <p><b>Matters arising from the minutes</b></p> <p><b><i>The Board resolved:</i></b></p> <ul style="list-style-type: none"> <li><i>to accept the tabled document.</i></li> </ul> |

|                            |  |                            |
|----------------------------|--|----------------------------|
|                            | <p><b>1.5 Process to draft, publish, review and approval process for minutes of meetings</b></p> <p>Note:</p> <ol style="list-style-type: none"> <li>1. Minutes of meetings of members and of directors must be entered in the minute book within one month of the meeting.<br/><i>Reference - CORPORATIONS ACT 2001 - SECT 251A</i></li> <li>2. The Final Minutes, once entered in the Minute Book, cannot be changed. Final minutes will be tabled at the next meeting for review and if any further points are raised/corrections required these will be recorded in the minutes of that meeting.</li> </ol> <p>Process:</p> <ol style="list-style-type: none"> <li>1. the Secretariat will publish a draft set of minutes for review by the Chair within 2 business days of the meeting, excluding the day of the meeting.</li> <li>2. the Chair will revert to the Secretariat with amendments within 2 business days.</li> <li>3. the draft Minutes will then be distributed to the Directors/Members for comment.</li> <li>4. Directors/Members will be given one week to respond.</li> <li>5. the Chair will consider the responses and publish a revised set of minutes, if necessary. <ol style="list-style-type: none"> <li>5.1. if the Chair considers the changes are not material, the Chair will publish a final set of minutes for signature.</li> <li>5.2. if the Chair considers the changes are substantial and materially affect the recording of the outcomes of the Meeting they have the authority to request that the Secretariat redistribute the draft minutes for further review, cognisant of the time imperative of one month.</li> </ol> </li> <li>6. in keeping with Point 5 above, the Chair will sign the minutes within one month of the meeting.</li> </ol> |                            |
| <b>Reference material</b>  | <ul style="list-style-type: none"> <li>• <i>Meetings, Minutes and Resolutions</i> – published by the Governance Institute of Australia, 2014</li> </ul>  |                            |
| <b>Training</b>            | <ul style="list-style-type: none"> <li>• All secretariat personnel will or have attended and passed the assessment for the Governance Institute of Australia Course – Meetings, Minutes and Resolutions.</li> </ul>  |                            |
| <b>Application</b>         | <p>The policy applies to the conduct of all secretariat functions conducted by GTA which includes but may not be limited too:</p> <ul style="list-style-type: none"> <li>• GTA Board;</li> <li>• subcommittees of the GTA Board;</li> <li>• GTA Technical Committees;</li> <li>• subcommittees of the GTA Technical Committees; and the</li> <li>• National Working Party on Grain Protection.</li> </ul>  |                            |
| <b>Implementation</b>      | <ul style="list-style-type: none"> <li>• The Board Governance Committee will oversee and give direction, as required, to the GTA CEO who will implement and manage these procedures.</li> <li>• Day to day operation of this procedure will be managed by the relevant GTA Manager.</li> </ul>   |                            |
| <b>Responsibilities</b>    | <ul style="list-style-type: none"> <li>• The GTA Board Governance Committee is responsible for the establishment, approval and ongoing sponsorship of this policy.</li> <li>• The principal contact in the GTA secretariat is the GTA CEO.</li> <li>• Chairs of all GTA Committees are responsible for adhering to this policy.</li> </ul>   |                            |
| <b>Further information</b> | <p>Further questions should be directed to the GTA CEO.</p>  |                            |
| <b>Effective date</b>      | <p>23 February 2015</p>  |                            |
| <b>Owner</b>               | <p>CEO</p>   |                            |
| <b>Approval</b>            | <p>GTA Board</p>   |                            |
| <b>Version number</b>      | <b>Issue Date</b>  | <b>Nature of Amendment</b> |
| 1                          | 23 February 2015   | New SOP                    |

This is a sample agenda. On the following pages, you will find explanations of the purpose of each element of the agenda. Some of the elements of the agenda may require amendment for use as committee meeting agendas. The sample agenda should be read in conjunction with Governance Institute's sample minutes.

## KEY

**Explanatory Notes**  
These notes explain the purpose of each element of the minutes and are provided for education only. The explanatory notes should not appear in an agenda.

**PURPLE TEXT** = items that are optional, according to company circumstance



**[COMPANY NAME]**  
A.B.N. XX-XXX-XXX-XXX

# [Company name]

## Notice of Meeting of the [Board of Directors/ Board Committee/Management Committee]

### Notice of Agenda

For a meeting to be held on **[date]**, at **[time]** at **[location]**.

| Item number |  | Responsibility (optional)  | Paper                 | Action Required |
|-------------|--|----------------------------|-----------------------|-----------------|
| <b>1</b>    | <b>Welcome, present and apologies</b>  |                            |                       |                 |
| <b>2</b>    | <b>Declaration of interests</b>  |                            |                       |                 |
| 2.1         | Declaration of directors' interests  | Name of person             | Paper no.             | [action here]   |
| 2.2         | Director trading activity (applicable to public listed companies only)   | Name of person             | Paper no.             | [action here]   |
| <b>3</b>    | <b>Minutes of the last board / committee meeting</b>   |                            |                       |                 |
| 3.2         | Matters arising from previous meetings not covered elsewhere in the agenda   | Name of person             | Paper no.             | [action here]   |
| 3.3         | Action items   | Name of person             | Paper no.             | [action here]   |
| 3.4         | Noting circulating resolution (optional)   |                            |                       |                 |
| <b>4</b>    | <b>CEO or General Manager report</b>   |                            |                       |                 |
| 4.X         | Legal and risk (optional)  | Name of person             | Paper no.             | [action here]   |
| 4.X         | Industry update (optional)   | Name of person             | Paper no.             | [action here]   |
| 4.X         | Related party transactions (optional)  | Name of person if relevant | Paper no. if relevant | [action here]   |
| <b>5</b>    | <b>Governance</b>  |                            |                       |                 |
| 5.X         | Governance and ASX announcements (optional)  | Name of person             | Paper no.             | [action here]   |
| <b>6</b>    | <b>General business</b>  |                            |                       |                 |
| <b>7</b>    | <b>Meeting review (optional)</b>   | Name of person             |                       |                 |
| <b>8</b>    | <b>Next meeting</b>  |                            |                       |                 |
|             | The next meeting of the <b>[Insert Company Name]</b> Board of Directors / Board Committee / Management Committee will be held on <b>[Date]</b> and <b>[Time]</b> at <b>[Address]</b> . |                            |                       |                 |
| <b>9</b>    | <b>Closure</b>   |                            |                       |                 |

**[COMPANY NAME]**

**A.B.N. XX-XXX-XXX-XXX**

| Item number  | Responsibility (optional)   | Paper   | Action Required   |
|--|---|---|---|
| It is good practice to list the agenda in a table format with item numbers attached as this provides easy reference for future actions and meetings. | The person tasked with responsibility for a particular agenda item may be noted here. | If a paper accompanies the agenda item, then the paper will be similarly numbered, eg if it is Agenda item 3.1, the paper will be called 3.1. If there is no paper, there may be a verbal report. | This should reflect what action the board of directors or committee members must take in relation to agenda items, eg, For resolution, For noting, For ratification. Governance Institute has a Good Governance Guide: <i>Board matters: when to resolve, ratify or note</i> , that explains these items. |

**[COMPANY NAME]**

**A.B.N. XX-XXX-XXX-XXX**

**[Company name]**

## **Notice of Meeting of the [Board of Directors/Board Committee/Management Committee]**

Providing the Company Name at the top of the document clearly identifies the function of the Company to which the meeting agenda applies. Providing the title of the body that holds the meeting is essential for organisational records.

### **Notice of Agenda**

For a meeting to be held on **[Date]**, at **[Time]** at **[Location]**

The agenda provides the board of directors or board committee with notice of the location, date and time of the meeting and the proposed topics for discussion and resolution. While there is little detailed procedural regulation for convening directors meetings, s 248C (a replaceable rule) of the *Corporations Act 2001* Cth requires that a 'directors' meeting may be called by a director giving reasonable notice individually to every other director'.

The purpose of an agenda is to table the relevant business of the meeting and to empower decision making by the directors of the board, through providing notice of the matters which affect business.

## **1 Welcome, present and apologies**

Under s 251A of the Corporations Act, a company must keep minute books in which it records, within one month, the proceedings and resolutions of directors' meetings (including meetings of a committee of directors). It is necessary to record in those minutes the directors who are present at the meeting, the relevant time that they join or leave the meeting, and those who send their apologies, so that it is clear who was making decisions at the meeting. The minutes should also record other attendees at the meeting, the capacity in which they are attending **and may record the times at which they joined and left the meeting, as relevant**. In order to facilitate the record in the minutes of those involved in decision making on behalf of the organisation, the first agenda item will be a welcome of those present, and a note of those who have proffered their apologies. Good corporate governance requires disclosure of director attendance at meetings in the annual report.

## **2 Declaration of interests**

### **2.1 Declaration of directors' interests**

Sections 191 and 192 of the Corporations Act 2001 provide standing items for directors (of both public and private companies) to make various disclosures at directors' meetings about matters in which they have a material personal interest when conflict arises. Section 195 prohibits directors of public companies from voting on matters in which they have a material personal interest. Directors are also encouraged to ensure that they disclose at each meeting any material personal interests in any of the items on the agenda. This is a personal and non-transferable obligation on directors — they have a positive duty to declare their interests. These matters could involve a financial interest giving rise to a conflict of interest, or a perception of a conflict of interest, or they could be a conflict of loyalty, which will not involve a financial interest, but which arise when a director has a competing loyalty between the organisation to which they owe a primary duty as a director and some other person or entity. There is also an obligation under ss 182 and 183 of the Corporations Act 2001 for each director not to use either their position or information gained as a result of their position to gain an advantage for themselves or someone else; or cause detriment to the company. See Governance Institute's Good Governance Guide: *Issues to consider when developing a policy on disclosure of and voting on matters involving a director's material personal interests*.

## 2.2 Director trading activity (applicable to public listed companies only)

The Corporations Act prohibits 'insider trading' generally (ss 1042 and 1043) and the ASX Listing Rules and Corporations Act require notification to the market by directors where particular dealings change their relevant interest in the entity's securities. It is good practice therefore for directors of public listed companies to disclose to the meeting any trading in securities of the company of which they are a director.

## 3 Minutes of the last board / committee meeting

Under s 251A of the Corporations Act, a company must keep minute books in which it records, within one month, the proceedings and resolutions of directors' meetings (including meetings of a committee of directors). The company must also ensure that the minutes of a directors' meeting are signed by the chair of the meeting (or the chair of the next meeting) within a reasonable time. If minutes are recorded and signed in this way, they are evidence of the proceedings and resolutions passed, unless the contrary is proved (s 251A(6) provides that a minute which is recorded and signed is *prima facie* evidence of the proceeding, resolution or declaration to which it relates).

Directors will discuss items in the minutes of the last board or committee meeting in conjuncture with the action items list (see below).

### 3.2 Matters arising from previous meetings not covered elsewhere in the agenda

This relates to the dynamism of the issues which are captured in the board minutes. Directors need to be apprised of matters affecting their authority and oversight which in turn allows them to demonstrate adherence to their duties as directors. Directors are able to keep their fingers on the pulse of matters, by noting the progress of matters since the previous meeting, even when those matters are not included on the agenda of the current meeting. It is good practice for matters arising to cover only matters upon which a watching brief has been maintained, as any matters which required a further specific action should be covered off under the heading 'Action Items' or should be included on the agenda.

### 3.3 Action items

The action items list is the mechanism by which the board keeps abreast of what it has resolved and to whom it has delegated those resolutions at previous board meetings. The action items list notes who is required to undertake a particular action, when the action is required to be undertaken or completed and may also note how the action is to be performed. Section 198A(1) (replaceable rule) of the Corporations Act provides that the business of the company is to be managed by or under the direction of the directors; that is, the directors are to exercise all the powers of a company except any that the law or the company's constitution (if any) requires the company to exercise in general meeting. Companies have clauses in their constitutions that allow the directors broad ability to delegate their collective powers, but not their duties, which under both common law and statute, are non-delegable. This means, in accordance with s 198D(3), that the exercise of power is as effective as if the director had exercised it. The action items list provides a procedure for this delegation to occur and for reporting to the board as to the success or otherwise of that delegation.

It is good practice for the company secretary to send out a copy of the action items list prior to the directors' meeting to the relevant parties nominated in the action items list to allow them to update and/or attend to any tasks which are outstanding.

### 3.4 Noting circulating resolution (optional)

Section 248A of the Corporations Act (a replaceable rule for companies with more than one director) provides that directors may pass a resolution without a directors' meeting being held if all directors who are eligible to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. The resolution is passed when the last director signs it. Many company constitutions allow for a majority of the directors to pass a circulating resolution as it can be difficult to obtain the consent of all directors in a short time frame when a meeting is not held, and quick action is required. By providing notice of the circulating resolutions which have been passed during the intervening period between directors' meetings, this item provides that all the resolutions made are captured in the minutes.

It is important that the agenda stipulate which resolutions are for noting, ratification or resolving, see Governance Institute's *Good Governance Guide: Board matters: when to resolve, ratify or note*.

## 4 CEO or general manager report

At each directors' meeting, the CEO, managing director or general manager of the organisation must report to the directors on a variety of matters. As noted above, directors can delegate their collective powers to manage the business of the company but not their responsibility, and so in order to fulfil their directors' duties they must be properly briefed about the financial performance, key performance indicators and operations of the company, including the alignment of those matters with the strategy set by the board. Reports should cover:

- the key financial metrics, which includes cash flow, liquidity ratios, debtors and receivers and how financial performance is tracking against the budget
- any major contractual matters
- occupational health and safety reports
- any matters pertaining to key personnel that are relevant any substantial operational issues (for example, the roll-out of a new information technology platform)

Importantly, a key responsibility of directors is to scrutinise company accounts. The Centro decision confirmed not only the importance of the annual accounts but also the fact that the Corporations Act places specific responsibilities upon directors in relation to the accounts means that directors cannot delegate those responsibilities. The Centro decision also confirmed that directors cannot substitute reliance upon the advice of management for their own attention and examination of an important matter that falls specifically within the board's responsibilities. The Act places upon the board and each director the specific task of approving the financial statements.

### 4.X Legal and risk (optional)

Some companies choose to maintain legal and risk as a standing item on the board's agenda. This is to ensure that the company's legal and risk register is adequately maintained. Such an agenda item would include contingent or actual liabilities in relation to potential litigation. It should be noted that while the board has oversight of and reviews the management of risk within the organisation, it is the senior managers who are responsible for the management of risk within the organisation. Risk should, of course, be aligned with the strategy at the board level.

### 4.X Industry update (optional)

Where a company does not distribute intra-meeting updates, a company may wish to provide a forum in which discussion about the issues relevant to the industry can be discussed. The purpose of this item is to ensure that directors remain briefed about any issues which current affect their particular industry.

### 4.X Related party transactions (optional)

Related party transactions may occur independently of directors' interests. This agenda item allows for the disclosure, discussion and consideration of related party transactions, so that the directors may assess whether shareholder approval is required or an exemption applies in relation to the transaction.

## 5 Governance

### 5.X Governance and ASX announcements (public listed companies only)

Directors of all companies should be conscious of their governance obligations. An agenda item such as this provides the opportunity for directors to note share registry activity, any action on option plans, and updates to charters or policies, for example. Directors' trading activity may be noted here if there is not a separate agenda item dedicated to it. Directors of public listed companies also need to be aware of their continuous disclosure obligations under the Corporations Act and ASX Listing Rule 3.1. Discussion under this item must consider whether any material discussed during the meeting needs to be disclosed to the ASX in line with the company's continuous disclosure obligations.

## 6 General business

The agenda should provide an item whereby anything else which has not been included elsewhere on the agenda but which is of relevance either to the directors or the company and its members can be discussed or noted. This can include any issues specific to contracts or members, or an issue that directors may wish to raise. Business without notice can only be raised with consent.

## 7 Meeting review (optional)

The board of directors may wish to conduct an evaluation of the meeting to assess whether everything on the agenda was discussed adequately, and whether the meeting was properly conducted and in a timely manner. The purpose of this agenda item is continuous improvement.

## 8 Next meeting

The next meeting of the **[Insert Company Name]** Board of Directors / Board Committee / Management Committee will be held on **[Date]** and **[Time]** at **[Address]**

Each board meeting should conclude with confirmation of the date of the subsequent meeting, thereby providing reasonable notice to the directors. It is good practice to circulate to the board of directors the proposed meeting dates for the forthcoming year well in advance of the end of the year. This provides the directors with the opportunity to plan ahead.

## 9 Closure

The time at which the meeting concludes should be noted in the minutes, as the minutes need to record the details of the timing of the meeting to ensure they are correct record of the events that occurred. This agenda item provides for such notice.



Under 251A of the Corporations Act, a company must keep minute books in which it records, within one month, the proceedings and resolutions of directors' meetings (including meetings of a committee of directors). The company must also ensure that the minutes of a directors' meeting are signed by the chairman of the meeting (or the chairman of the next meeting) within a reasonable time. If minutes are recorded and signed in this way, they are evidence of the proceedings and resolutions passed, unless the contrary is proved.

In most companies, the minutes of the previous board meeting are formally approved at the subsequent board meeting. However, in many companies, the board does not meet each month, but may meet every two months or at other periods. These companies need to ensure that they have a process in place to satisfy the demands of the legislation when the next scheduled meeting is not within one month of the board meeting.

It is **good governance** to develop and implement a process to facilitate the entering of the minutes into the minute book within one month of the meeting, in order to ensure that a recording of the directors' meeting is made while memory of the meeting is fresh.

- The chairman should agree with the board members, CEO and company secretary upon a procedure for reviewing of the draft minutes.

- Once in receipt of the draft minutes, the chairman should review them and note any amendments that may be required within the time period agreed in the procedure.
- The draft minutes should then be approved by the chairman and any other person specified in the policy (for example, the CEO)
- If the next meeting is not within one month of the board meeting, the minutes as approved by the chairman should be entered in the minute book.
- The minutes should always be formally approved at the next meeting if they have not previously been formally approved by all the members of the board.
- If the minutes are amended at the next board meeting, this should be reflected in the minutes of the subsequent meeting.
- The original minutes with the amendments noted should be retained to demonstrate compliance with s 251A and to avoid any suggestion of destruction of company records in contravention of ss 1306 or 1307 of the Corporations Act.

Companies need to decide the approach most suitable to their circumstances.

These are sample minutes. Each heading is accompanied by an explanation of the purpose of each element of the minutes. The sample minutes should be read in conjunction with Governance Institute's sample agenda.

## KEY

**Explanatory Notes**  
These notes explain the purpose of each element of the minutes and are provided for education only. The explanatory notes should not appear in an agenda.

**PURPLE TEXT** = items that are optional, according to company circumstance



**[COMPANY NAME]**  
**A.B.N. XX-XXX-XXX-XXX**

# [Company name]

## [PUBLIC COMPANY] Board of Directors

Providing the company name at the top of the document clearly identifies the identity of the organisation of whose meeting the minutes are a record. Providing the title of the body that holds the meeting is essential for organisational records.

## Minutes

Minutes for a meeting of the Board of Directors of **[Company Name]** held on **[Date]**, at the **[Location]** commenced at **[Time]**

The minutes of the meeting provide the primary evidentiary source of the events that occurred. Under s 251A(6) of the *Corporations Act 2001* (Cth), proceedings entered into a company's minute book and properly signed are *prima facie* evidence of the proceedings. It is important, therefore, that details concerning the timing and location of the meeting are correctly recorded. The primacy of company minutes has been reinforced by the recent court decision in *James Hardie*.

Importantly, the minutes must be an accurate record of the meeting. It is important that the minutes reflect the agenda of the meeting. A director cannot bring new business before a meeting of the board without notice or the consent of the directors, as all directors must have reasonable notice of the meeting and the items to be discussed. Short notice can be provided, but all directors must consent to it. Please refer to Governance Institute's *sample agenda* where we explain each element of an agenda.

It is also important to number the pages of the minutes for easy reference. A decision needs to be taken as to whether the page numbers will be consecutive, which can be useful from an audit perspective, as it ensures there are no duplicated page numbers. A decision also needs to be taken as to whether the chair will sign and date each page of the minutes, or sign and date the final page of the minutes, and initial the other pages. Both approaches are acceptable — what is important is that the company can provide comfort that the version of the minutes entered in the minute book is the correct record that has been signed by the chair.

## 1 Attendance

### Present

Example: Mr John Smith

### Position

Chair

As the minutes are evidence of the proceedings and resolutions passed by the directors present, they must include a list of those directors in attendance at the meeting. The minutes should also record the relevant time that directors join or leave the meeting, and those who send their apologies due to other commitments, so that it is clear who was making decisions at the meeting. The minutes should record other attendees at the meeting, the capacity in which they are attending **and may record the times at which they joined and left the meeting, as relevant**. Good corporate governance requires disclosure of director attendance at meetings in the annual report — the minutes will provide this record.

Where directors are unable to attend the meeting in person, s 248D of the *Corporations Act* allows directors' meetings to be called or held using any technology which has the consent of all the directors. The consent may be a standing consent, and a director may only be able to withdraw their consent a reasonable time before the meeting commences. The minutes should reflect whether the directors attended the meeting in person or through the use of technology. It is good practice to have those attending by phone announce themselves at the commencement of the meeting and in some cases the constitution may provide for this to occur.

## Apologies

The minutes should also reflect those directors who send their apologies and those apologies should be noted to the directors present.

## In attendance

The minutes should list the other attendees at the meeting, including executive officers of the company. The minutes also record the minute taker for the meeting, who is usually the company secretary.

## Chair

The Chair, **[name]**, declared the meeting open at **[time]** and that a quorum was present.

The chair will always declare the meeting to open at a particular time. The requirements for a quorum for business to be properly discussed and resolved at a meeting is usually determined by either the terms of the company's constitution or s 248F (a replaceable rule) of the Corporations Act which requires at least two directors to be present. A quorum must be maintained throughout the entire duration of the meeting — it is important that the requirement for a quorum is considered when directors leave the meeting for any particular reason as the decisions made by the board can be procedurally challenged if it is subsequently revealed that a quorum is not present. There are exceptions to this for public companies (see ss 191(4) and 195(5) of the Corporations Act). It is also important to note that s1322(2) and (4)(a) of the Corporations Act provide a general power of relief in circumstances where an irregularity arises. These sections are of last resort and good governance dictates that it is paramount that proper meeting practice and procedure be followed.

It is important that the minutes are always written in the past tense, as they are a historic record and not a forward-looking document. It is also preferable to use the active voice rather than the passive voice when recording minutes (for example, 'The chair declared the meeting open, rather than 'The meeting was declared open by the chair'.)

## 2 Declaration of interests

### 2.1 Declaration of directors' interests

**[Name of individual director]** declared that s/he had an interest in **[Explanation]**

**[Name of individual directors]** declared that **[Explanation]** which might affect their relationship with **[Company Name]** regarding matters to be discussed during the meeting.

Directors (but not other officers) who have a material personal interest in a matter that is being considered or will be considered at the meeting of the board or its committee, or a conflict or perceived conflict between the duties which the director may owe to another entity of which they are a director or salaried executive and their duties as a director of the company in considering a matter than is brought before a meeting of the board, must disclose that interest to the other directors (as provided for in s 191 of the Corporations Act) unless a s 191(2) exception applies. Upon being appointed as a director, it is good practice for a director to disclose their material personal interests in a 'standing notice'. The entity should set out the guiding principles for the disclosure of those interests. The standing notice should provide details of the nature and extent of the interest and how the interest relates to the affairs of the company and recorded in a register of interests.

Directors should be asked to consider at the commencement of the meeting if they have a conflict of interest in relation to any of the items on the meeting agenda. If they do, the meeting must then determine the extent to which the director may or may not participate in the discussion and vote on that matter (s 195). Any declared conflicts of interest and board decisions relating to these must be recorded in the minutes. It is general meeting protocol that when the matter of business is tabled, the directors remain silent, unless there is a change to the extent or nature of their standing notice.

Listed companies should consider any shareholder approval requirements, disclosure requirements or voting restrictions set out in the ASX Listing Rules concerning directors having a notifiable interest in a relevant contract with the company or by being a party or otherwise connected to a transaction with the company that is subject to the ASX Listing Rules.

It is a personal statutory obligation on directors to disclose conflicts of interest — they cannot rely on the chair to bring their attention to the requirement for them to disclose any actual or perceived conflict of interest.

For more information, please see Governance Institute's Good Governance Guide: *Issues to consider when developing a policy on disclosure of and voting on matters involving a director's material personal interests.*

## 2.2 Director trading activity (applicable to public listed companies only)

The Corporations Act prohibits insider trading and the misuse of company knowledge and information for personal gain. The ASX Listing Rules and Corporations Act require notification to the market by directors where a dealing changes their relevant interest in the entity's securities. Notwithstanding that, a person in the position of director, officer or employee must not use confidential information or improperly use their position to gain an advantage for themselves or another cause detriment to the company.

## 3 Minutes of the last board / committee meeting

The minutes of the **[Name]** board meeting held on **[Date]** were adopted and signed by the Chair

Under s 251A of the Corporations Act, a company must keep minute books in which it records, within one month, the proceedings and resolutions of directors' meetings (including meetings of a committee of directors). In most companies, the minutes of the previous board meeting are formally approved at the subsequent board meeting. However, in many companies, the board does not meet each month, but may meet every two months or at other periods. These companies, therefore, need to ensure that they have a process in place to satisfy the demands of the legislation when the next scheduled meeting is not within one month of the board meeting. For more information please refer to Governance Institute's Good Governance Guide: *Recording minutes of directors' meetings.*

The minutes must be signed by the chair of the meeting — it can be the chair of either the previous meeting or the current meeting before which the minutes have been tabled. When the board of directors authorises the chair to sign the minutes of the previous meeting as an accurate record of that meeting, the last page of the minutes should be properly structured to record that fact. For example, a statement might indicate that the minutes have been signed as a true and correct record of the meeting and that the chair is authorised to sign them (including the chair's name) on the appropriate date.

## 3.2 Matters arising from previous meetings not covered elsewhere in the agenda

The minutes will capture the progress of matters since the previous meeting, even when those matters are not included on the agenda of the current meeting.

## 3.3 Action items

The action items list is the mechanism by which the board keeps abreast of what it has resolved and to whom it has delegated those resolutions at previous board meetings. The action items list notes who is required to undertake a particular action, when the action is required to be undertaken or completed and may also note how the action is to be performed. Some of the items on the action list will be included on the agenda of the current meeting, and will therefore be dealt with and recorded in the minutes under that agenda item. The minutes must record each action item, any progress or otherwise in relation to it and any further resolutions made by the directors in relation to it.

The action items list may be set out in a table format, as an attachment to the minutes, and include the following:

- an item number that correlates to the number on board agenda noting the business matter (for ease of reference)
- a summary and description of the item upon which action is required
- an assignment of the responsibility to a particular director, executive, or branch of the company
- an indication as to the ongoing status of the action item, and/or
- the deadlines which are relevant to the performing of actions

### 3.4 Noting circulating resolution (optional)

The minutes may capture notice of the circulating resolutions which have been passed during the intervening period between directors' meetings.

## 4 [Agenda items]

A company's minutes should reflect the order of the agenda of the previous meeting. The minutes should also reflect what action the board of directors or committee members took in relation to each agenda item, that is, For decision; For noting, For ratification. See Governance Institute's Good Governance Guide: *Board matters: when to resolve, ratify or note*.

Minutes of resolution will simply record that an agenda item was discussed and a resolution passed. Minutes of narration may choose to provide more information about the issues under consideration and the deliberations of the directors in arriving at the resolution. However, it is common practice to omit from the minutes extraneous material such as discussion, lost amendments, unseconded motions and procedural motions.

Directors' minutes *must* record the passing of a resolution as the collective will of that body and adequately record the process followed in coming to that business decision, whether it be to take or not to take certain action. Individual directors are not named in relation to resolutions — it is unitary decision. There is no one-size-fits-all approach to choosing which style of the minutes are appropriate for all organisations, but it is common for the minutes of public companies to be more in the style of minutes of resolution. Importantly, minutes should not record every aspect of the discussion in relation to any particular matter, nor any record of which director made which comment on the issue.

A 'happy medium' between pure minutes of resolution and minutes of narration is likely to be appropriate for modern corporate practice. Boards will ultimately make the decision as to their preferred mode of recording minutes and the extent to which additional information regarding board discussions is contained within them.

To ensure that the business judgement rule under s 180(2) of the Corporations Act can apply, it is important that the minutes reflect the fact that the directors turned their mind to the issues contained on the agenda, acted in good faith, for a proper purpose and in the absence of a material personal interest, and came to a rational decision which was reasonable for each of them to reach, in light of their own skills and experience and in light of circumstances known to the company at the time. The company's directors' and officers' insurance should also be considered. See Governance Institute's Good Governance Guide: *Board minutes: what to record, the business judgment rule*.

Only in very limited situations should individual comments by directors expressing dissent with the collective decision of the board be captured by the minutes, if a director so requests. As noted, a board should function cohesively in unity.

When recording the minutes in relation to each agenda item, it is good practice to note if a paper was presented to the board for consideration. It is good governance to ensure that a folder is maintained for each board meeting which includes an original set of board papers including copies of all documents tabled and presentations given at the meeting. See Governance Institute's Good Governance Guide: *Board papers*.

Some specific comments in relation to regular agenda items are provided below.

### 4.1 CEO or General Manager report

At each directors' meeting, the CEO, managing director or general manager of the organisation must report to the directors on a variety of matters. It is usual for the CEO's report to be included in the board pack and discussed at the meeting. Section 198A(1) (replaceable rule) of the Corporations Act 2001 provides that the business of the company is to be managed by or under the direction of the directors; that is, the directors are to exercise all the powers of a company except any that the law or the company's constitution (if any) requires the company to exercise in general meeting. Companies have clauses in their constitutions that allow the directors broad ability to delegate their collective powers, but not their responsibility, to others. See Governance Institute's *Providing your board with comfort on the accountability mechanisms operating in your company*.

The minutes must record the report to the directors by those to whom it has delegated its powers. See Governance Institute's *sample agenda* for a list of the reports from the CEO or general manager that the directors would expect to receive, and which will be recorded in the minutes.

#### 4.2 Financial report

The minutes should record that the directors considered the financial accounts at each meeting. The financial accounts should be discussed at the meeting.

### 5 Committee [name] reports

The minutes should also contain a record of the reports received from the board's committees, such as the audit, remuneration and nomination committees. This ensures that the delegations made by the board to its committees receive appropriate oversight and that the board takes responsibility for any resolutions arising from committee deliberations. For example, the audit committee may scrutinise the company accounts and make recommendations to the board but the Corporations Act places upon the board and each director the specific task of approving the financial statements and this responsibility cannot be delegated to a committee. Each committee may not necessarily report to the board at each directors' meeting.

Importantly, while the board retains ultimate responsibility for the management of risks within the entity, it can delegate the day-to-day management function of risk to management. The board is responsible for reviewing the company's policies on risk oversight and management, settling the risk appetite, and satisfying itself that management has developed and implemented a sound system of risk management and internal control. The board should require management to report to it on whether the company's material business risks are being managed effectively. The board may wish to have the risk register tabled at each meeting (otherwise, each quarter, as a general rule) and this would be recorded in the minutes.

### 6 Governance

#### Directors' discussion

In order to demonstrate the independence of the board from management, or where there are instances of potential conflicts of interest, such as any discussion of CEO remuneration, the non-executive directors may request management to leave the room. The minutes should record the name and title of the party requested to leave the room, and **may record the time at which they left and rejoined the room, although there could be concern that showing the times may misinterpreted as inadequate consideration by the directors of the matters under discussion.** It is common for the non-executive directors to hold discussions without management present following the report from the audit committee on the financial statements. It is also common for the non-executive directors to hold a discussion with the auditors without management being present when the financial statements are presented to the board.

Example            the CEO **[name]** and CFO **[name]** left the meeting  
                         The directors held a discussion without management present  
                         The CEO **[name]** and CFO **[name]** rejoined the meeting

### 7 General business

The minutes should record that the chair invited all those present to raise any matters of relevance that have not been dealt with on the agenda and any resolutions or noting of discussion that ensued in relation to those items of business should any be raised. Otherwise the minutes should record that there were no other items of general business raised. Business without notice can only be raised by consent.

### 8 Meeting review (optional)

If the board of directors has chosen to include evaluation of the meeting on the agenda, to assess whether everything on the agenda was discussed adequately and efficiently, and whether the meeting was properly conducted and in a timely manner, the minutes should record that such an evaluation took place and any resolutions arising from that discussion.

## 9 Next meeting

The next meeting of the **[insert company name]** Board of Directors / Board Committee will be held on **[date]** at **[time]** at **[address]**.

Each board meeting should conclude with confirmation of the date of the subsequent meeting, thereby providing reasonable notice to the directors. The minutes should record the date of the next meeting. The board calendar is settled at the beginning of the year and should stand as an attachment to the agenda and minutes as a running notice.

## 10 Closure

There being no further business, the Chair closed the meeting at **[Time]**.

The time at which the meeting concludes should be recorded in the minutes. The minutes record when the meeting commences and finishes, as details of the timing of the meeting are part of providing an evidentiary source of the events that occurred.

This is a sample action items list. On the following pages, you will find explanations of the purpose of each element of the action items list. The sample action items list should be read in conjunction with Governance Institute's sample minutes.

## KEY

(These notes explain the purpose of each element of the action items list and are provided for education only. The explanatory notes should not appear in an action items list.)



[COMPANY NAME]

A.B.N. XX-XXX-XXX-XXX

# [Company name]

## Action items list

For a meeting of the [Board of Directors/ Board Committee/Management Committee] held on [date] at [address].

| Item number | Minute number                                   | Action item  | Responsible person      | Status   | Proposed / actual date of completion |
|-------------|---|--|-------------------------|--|--------------------------------------|
| 1           | [Insert number, for example, 5029<br>(March13)] | [Agenda item/<br>topic heading,<br>for example,<br>half-year report:<br>Contact auditors<br>to discuss the<br>half-year report<br>requirements and<br>fee estimate; or<br><br>Company details:<br>X to update ASX<br>and ASIC with new<br>company address] | [Person<br>responsible] | Complete   | [Date]                               |
| 2           | [Insert number]                                 | [Agenda item/topic<br>heading]   | [Person<br>responsible] | Complete   | [Date]                               |
| 3           | [Insert number]                                 | [Agenda item/topic<br>heading]   | [Person<br>responsible] | Agenda item [insert number]  | [Date]                               |
| 4           | [Insert number]                                 | [Agenda item/topic<br>heading]   | [Person<br>responsible] | 80 per cent complete   | [Date]                               |
| 5           | [Insert number]                                 | [Agenda item/topic<br>heading]   | [Person<br>responsible] | Deferred to December meeting<br>as dependent on [insert relevant<br>information] | TBC                                  |



**[COMPANY NAME]**

**A.B.N. XX-XXX-XXX-XXX**

| <b>Item number</b>   | <b>Minute number</b>  | <b>Action item</b>  | <b>Responsible person</b>   | <b>Status</b>   | <b>Proposed / actual date of completion</b>   |
|--|---|---|---|---|---|
| It is good practice to have a distinct item number for each action item in the list (for ease of reference). | A reference to the minutes of the particular board meeting at which the action item arose ensures that the directors or committee members or other relevant parties, such as the company secretary or CEO, can refer to the resolution or discussion in the minutes for the context of the action item. | <p>The action item has arisen from the discussion or resolution taken by the board at a particular board meeting and is often expressed in summary form or by a shortened topic heading.</p> <p>The action items listed should be those not just from the previous board meeting, but also from earlier meetings that have been carried forward, as well as anything that has been completed since the last board meeting was held.</p> | <p>This nominates the person to whom a particular action list item is delegated.</p> <p>This person (for example, the CEO) may in turn delegate the action to their direct reports.</p> | <p>For each meeting this should reflect the current status of the action item (for example, complete, or 80 per cent complete), or whether the action item is included on the agenda of the current board meeting. Showing which action items have been completed since the previous board meeting provides the directors with confidence that all action items have been appropriately dealt with. If the action item appears on the agenda of the current meeting, then this should be noted as it will be dealt with during the meeting rather than in the review of the action list item. Frequently, the person responsible will report to the board meeting on progress. If an action item is in progress, then this should also be noted. If an action item sits on the action list for a number of meetings, showing only a small percentage of progress (for example, 30 per cent), the board can seek an explanation as to why progress has stalled. There may be a good reason for this, as circumstances may have changed, or the matter may have become irrelevant, or it may signal a lack of attention — it is important for the board to understand the reasons so it may make a decision as to whether to take the action item off the list, or allocate further resources, or seek to address the action.</p> | <p>The board should decide on a proposed date of completion of each action item. This may be a specific date, or 'The next board meeting' or, in some circumstances, 'ASAP'. For each meeting, until the status is complete, it is appropriate to record the proposed date of completion, as this also signals progress or otherwise of the action item. The date of completion should be used when an action item has been finalised. Once the completion of an action item has been recognised by the board and noted in the minutes, it can come off the action list. It is then entered in the archive list of completed actions. The minutes must always reflect that an action has been completed if this has occurred.</p> |

[COMPANY NAME]

A.B.N. XX-XXX-XXX-XXX

# [Company name]

## Action items list of the [Board of Directors/Board Committee/Management Committee]

Providing the company name at the top of the document clearly identifies the function of the company to which the action list applies. Providing the title of the body that holds the meeting is essential for organisational records.

### Notice of Agenda

For a meeting of the [Board of Directors/ Board Committee/Management Committee] held on [date] at [address].

The action items list should detail the location, date and time of the meeting at which the action item list will be discussed. This ensures that the action items list is relevant, current and can be cross referenced for future meetings.

### Action items list

Although there are no specific legislative provisions which require a company to maintain an action items list, it should be noted that 'action items' derive from the minutes of a previous meeting and are captured within the s 251A requirements of the *Corporations Act 2001* to table and approve minutes in subsequent meetings. It is, therefore, good and common practice to adopt a framework within which the directors or relevant committee of a company can ensure that matters which have previously arisen are progressing towards completion. The action items list provides a mechanism by which the board or committee can keep abreast of either the matters that it has resolved and to whom it has delegated those resolutions at previous board or committee meetings, or issues under consideration on which the board or committee is expecting further reporting or action.

Broadly, s 198A(1) (replaceable rule) of the *Corporations Act 2001* provides that the business of the company is to be managed by or under the direction of the directors; that is, the directors are to exercise all the powers of a company except any that the law of the company's constitution (if any) requires the company to exercise in general meeting. Companies have clauses in their constitutions that allow the directors the broad ability to delegate their collective powers, but not their duties, which under both common law and statute, are non-delegable. This means, in accordance with s 198D(3), that the exercise of power is as effective as if the director had exercised it. The action items list provides a procedure for this delegation to occur and for reporting to the board or relevant committee as to the success or otherwise of that delegation.

The action item list notes who is required to undertake a particular action, when the action is required to be undertaken or completed and may also note how the action is to be performed. Some of the items on the action list will be included on the agenda of the current meeting and will, therefore, be dealt with and recorded in the minutes under that agenda item.

The action item list will usually be a standing agenda item on the agenda for meetings. In accordance with s 251A of the *Corporations Act 2001*, the minutes must record, therefore, each action item, any progress or otherwise in relation to it and any further resolutions made by the directors or committee members in relation to it.

It is good practice for the company secretary to send out a copy of the action items list to the relevant parties to whom responsibility for actions has been delegated prior to the board or committee meeting to allow them to update and/or attend to any tasks which are outstanding.

The purpose of board papers is to facilitate communication between management and the board. The board papers should be as concise as possible, clarifying the purpose of each paper but always ensuring that the directors are properly informed about the matter. It is **good governance** to develop guidelines on how board papers should be presented, and for those guidelines to be clearly communicated to all parties who are preparing board papers. The board and senior management should set the tone for the organisation by providing the company secretary with the support to implement the guidelines.

The guidelines should ensure that board papers:

- are written in plain English, with minimal use of acronyms and industry jargon (provide a glossary of acronyms if required)
- share a consistent format and layout include a summary, background and more detailed content, in an accessible font and font size, clarify upfront whether the matter is for information, for discussion or for decision and where a decision is being sought, contain a clear recommendation from management and the exact wording of the proposed resolution directors are being asked to consider
- if directors are being asked to pass a resolution, the board paper should clearly articulate the pros and cons and material risks of each alternative open to the board
- articulate how any matter on which a decision is being sought is aligned with the strategic plan
- contain sufficient information to provide for an informed decision by directors
- do not include so much information that the critical elements are obscure
- are dated and include the author's name and title, and the name and title of the authorising executive or senior manager.

It is **good governance** to ensure that all board papers are distributed to directors sufficiently in advance of any directors' meeting to ensure that there is time for the directors to digest the contents of the papers and prepare for the meeting. It is common practice to distribute board papers approximately one week before the board meeting.

It is also **good governance** to establish a timetable at the start of each year for the provision of board papers to the board, as well as an annual calendar that sets out the regular items that will need to be considered at particular meetings (eg, annual accounts, risk declarations, succession planning etc).

Management and the board should regularly review the size and content of board packs to ensure that they are meeting the needs of the directors and enabling them to be properly informed without supplying too much information for them to digest.

### Tabled documents

Regardless of the process that is implemented to ensure board papers are distributed prior to the meeting, documents may, from time to time, need to be tabled. However this practice should be discouraged and kept to an absolute minimum. It is very important that directors have the opportunity to read and consider tabled documents and if necessary the meeting should be adjourned to allow them to do so.

Tabled documents and presentations raise particular concerns for directors who are attending meetings remotely by teleconference or video conference. If these directors cannot be sent a copy of the tabled document or presentation electronically then the document should (if practical) be read aloud to them. If neither is possible, then the director concerned should be given the opportunity to abstain from any decision related to the tabled document or presentation and the minutes of the meeting should record their abstention and the reason for it.

It is therefore **good governance** to ensure that:

- a folder is maintained for each board meeting which includes an original set of board papers including copies of all documents tabled and presentations given at the meeting. Confidential documents including documents subject to legal professional privilege as well as some HR and taxation papers which may be filed separately
- in addition to a hard copy folder, electronic copies of board papers, tabled documents and presentations should be obtained and retained whenever possible, or this could be an alternative to a hard copy folder, in which case all documents must be maintained electronically
- when documents are tabled or presentations given, the name of the author/presenter, that person's title and the date is noted on the document or presentation and the steps that were taken as a result (see above)
- the minutes refer to the tabled document or presentation and whether any directors did not have access to the tabled document or presentation
- the minutes of the meeting note that a paper circulated at short notice or a tabled document and/or presentation was not included in the papers circulated to directors in advance of the meeting in the ordinary course, to provide a record that directors had only a limited time to consider its contents.

If there are any documents that are subject to legal professional privilege these should be dealt with separately if necessary to ensure that privilege is not waived through inappropriately wide circulation of the privileged document. Companies should seek advice from internal or external legal counsel and develop policies on the management of privileged documents to ensure that legal professional privilege is not inadvertently waived.

Companies may be required to keep board papers under deeds of access and indemnity to ensure that directors continue to have access for a period of time as specified in their particular deed of access.

It is **good governance** for companies to have a policy about whether individual directors may also keep their copy of board papers (in hard copy or electronically) which may contain annotations which have been made by the director.

### Late papers

It is **good governance** to have a policy discouraging late papers and for there not to be late papers presented to the board or in any quantity. This practice should be discouraged, as directors need time to read and digest the board papers.