

10 December 2021

Board Renewal Policy

Trustee	NESS Super Pty Ltd ABN 28 003 156 812 RSE Licence No. L0000161 AFS Licence No. 238945
Fund	NESS Super ABN 79 229 227 691 RSE Registration No. R1000115
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This policy was previously part of the Governance Policy, version 13, dated 18 June 2021.

The following history and amendments have been made to this document:

Version	Prepared By	Reviewed By	Approved By
Version 1.0	F. Feist, Risk & Compliance Manager November 2021	C. Cahill, CEO and Remuneration Committee November 2021	Board, 10 December 2021.

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1. Introduction

1.1 Background

- 1.1.1 NESS Super Pty Ltd (the Trustee) is the Trustee for NESS Super (the Fund).
- 1.1.2 The Trustee is the Registrable Superannuation Entity licensee (RSE licensee) for the Fund.
- 1.1.3 The Trustee acknowledges its obligation to ensure the Board of Directors remain open to new ideas and independent thinking, while retaining adequate expertise.
- 1.1.4 This Policy has been approved by the Board of Directors.

1.2 Purpose

- 1.2.1 This policy has been created to ensure the Trustee meets the requirements of Prudential Standard SPS 510 – Governance and Part 9 of the SIS Act 1993.
- 1.2.2 This policy aims to ensure a vibrant, efficient and effective Board with an appropriate balance of tenure, skill, knowledge, diversity, independence and experience to promote member and beneficiary confidence.
- 1.2.3 This document should be read in conjunction with the Trustee’s Trustee Board Charter, Audit Risk & Compliance Committee Charter, Investment Committee Charter, Remuneration Committee Charter, Insurance Committee Charter, Mergers & Acquisition Charter, Position Description for the Role of CEO, Conflicts Management Policy, Fit and Proper Policy, Risk Management Strategy, Register of Material Risks, Outsourcing Policy, Business Continuity Management Plan and Privacy Policy.

1.3 Scope

- 1.3.1 This Policy applies to the Trustee, Secretariat, and Nominating Entities.

1.4 Relevant laws

- 1.4.1 The Trustee has created this policy in reference to:
 - (a) The Superannuation Industry (Supervision) Act 1993 (the SIS Act) and Regulations (as amended).
 - (b) The Corporations Act 2001 and Regulations (as amended).
 - (c) The conditions of the Trustee’s Responsible Superannuation Entity (RSE) Licence and Australian Financial Services (AFS) Licence.
 - (d) Prudential Standard SPS 510 – Governance (SPS 510).
 - (e) Prudential Practice Guide SPG 510 – Governance (SPG 510).

2. Policy Statement

2.1 Board Renewal

- 2.1.1 The Board has set a maximum tenure of three (3) terms, where each term is a maximum of four (4) years for each Director which is equal to a maximum of twelve (12) years on the Board.
- 2.1.2 Should there be no change to the Board during any consecutive four (4) year period, the Board will consider options that are possible and appropriate to renewing the Board. The consideration and discussion will occur during the annual Board performance assessment.
- 2.1.3 The Board will also strongly encourage the Member and Employer sponsors to consider diversity in their potential Director nominations. Diversity considerations would include but not limited to gender.

2.2 Eligibility for Appointment as Director

- 2.2.1 A person is required to satisfy the following conditions to be eligible for appointment as a Director:
- (a) Be at least 18 years of age;
 - (b) Not be convicted of an offence in respect of dishonest conduct in Australia or overseas at any time unless otherwise approved by the Directors and the Australian Prudential Regulation Authority (APRA);
 - (c) Not have a civil penalty order under the SIS Act 1993 made against them;
 - (d) Not be insolvent or bankrupt;
 - (e) Not be in prison;
 - (f) Not be ineligible to be a Director in accordance with the requirements of the Corporations Act 2001; and
 - (g) Not have been prohibited from managing a corporation by an order of the Federal Court or the Supreme Court of any jurisdiction in Australia or the Australian Securities & Investments Commission.
- 2.2.2 A person appointed Director must execute all necessary documents to act as a Director of the Trustee
- 2.2.3 All prospective Directors are required to meet the fit and proper requirements as set out in the *Corporations Act 2001*, the *Superannuation Industry (Supervision) Act 1993*, *Superannuation Prudential Standard SPS 520 – Fit and Proper*.

2.3 Nominations

- 2.3.1 Employer and Member Directors are nominated by the respective sponsoring organisation.
- 2.3.2 Alternate Directors may also be nominated by each sponsor. Alternate Directors are expected to gain skills, knowledge and experience aligned to the Trustee's strategic objectives and skills requirements. This approach also provides an opportunity for knowledge to be transferred from existing Directors to new Directors.
- 2.3.3 The Trustee acknowledges the rights of sponsors to nominate Directors and will liaise with sponsors regarding potential nominees.

- 2.3.4 When liaising with sponsors the Trustee will consider the following factors regarding the suitability of nominated candidates:
- (a) Ability to satisfy Fit and Proper requirements on an ongoing basis
 - (b) Skills, knowledge, and experience
 - (c) Any attributes which the Trustee would not regard as appropriate for a Director
 - (d) Any attributes which the Trustee would consider desirable for a Director (e.g., to increase diversity)
 - (e) Ability and have the availability to participate in Board and committee activities, including attend meetings

2.3.5 Independent Directors are appointed by the Nominated Directors. The Trustee Board may convene an ad hoc Board meeting if and when required to identify, select, and appoint an Independent Director.

2.4 Appointment

2.4.1 The Constitution of NESS Super Pty Ltd is not prescriptive as to who may be appointed as a Director.

2.4.2 The Member Representative Directors are nominated by the Electrical Trades Union NSW Branch (**ETU**).

2.4.3 The Employer Representative Directors are nominated by the National Electrical and Communications Association NSW (**NECA**).

2.4.4 The Trustee will provide an outline of the desired skills to the sponsoring organisation for a replacement director based on input from the Board skills matrix and the Board's diversity aim and will encourage the sponsoring organisation to take this into account when identifying and nominating a replacement director.

2.4.5 An Independent Director may be appointed by resolution of the Nominated Directors if that person is not:

- (a) a member of the Fund,
- (b) a Sponsoring Employer of the Fund or an Officer or employee of a Sponsoring Employer of the Fund; or
- (c) an official of a trade union or any organisation that represents employers or members.

2.4.6 The appointment of each Director will automatically renew following completion of each four (4) year term, provided the following occurs:

- (a) A fit and proper assessment is conducted at least annually on each Director;
- (b) If a Director fails a fit and proper assessment, remediation will be required, or the Director may be subject to removal in accordance with Section 2.5.2(h).
- (c) The Board Performance Procedure as set out in Appendix B of the Governance Policy is performed, this includes a process for remediating Director Underperformance.

2.4.7 All nominees are required to meet the fit and proper requirements as set out in the *Corporations Act 2001*, the *Superannuation Industry (Supervision) Act 1993*, *Superannuation Prudential Standard SPS 520 – Fit and Proper*.

2.5 Removal

2.5.1 Rules governing the removal of Directors are set out in Clause 16.1 of the Constitution of the Trustee.

2.5.2 The office of a Nominated Director or an Independent Director will become vacant if the Director:

- (a) Dies; or
- (b) Becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health; or
- (c) Is removed by the entity responsible for the appointment of the Director; or
- (d) Resigns by written notice in writing to the Trustee company; or
- (e) Is absent without consent from meetings of the Directors held during a period of six months; or
- (f) Term of office expires or that Director's appointment to such office ceases; or
- (g) Becomes disqualified from that office by the operation of law or that Director becomes a disqualified person as that term is defined in Relevant Law; or
- (h) No longer meets the 'fit and proper person' requirements in the Relevant Law, and a resolution is passed with at least two-thirds of the Board of Directors vote to remove that Director due to the Director failing to meet the fit and proper requirements.

2.5.3 Subject to the Director meeting the fit and proper requirements as stated in Section 3.4.4 above, an Independent Director shall hold office for four (4) years (or such other period as specified in the resolution of the Nominated Directors appointing the Independent Director). An Independent Director is eligible to be reappointed upon the expiry of his or her term of office by a resolution of the Nominated Directors.

2.6 Term of Appointment

2.6.1 The Trustee has determined that term of office of a Nominated Director and an Independent Director shall be four (4) years.

2.6.2 Nominated Directors may serve a maximum of three (3) terms of office.

2.6.3 The Trustee is confident that a maximum of three (3) terms will not be reasonably perceived to materially interfere with a Nominated Director's ability to act in the best interests of members and beneficiaries and is an appropriate length of time.

2.6.4 In exceptional and unforeseen circumstances, the Board may request a Director to exceed the twelve (12) year maximum tenure to a maximum of an additional three (3) months. This request will only occur if it is in the best interest of the members and beneficiaries.

2.7 Board size

2.7.1 The Board is comprised of:

- (a) Two (2) Directors to represent members and are nominated the ETU.
- (b) Two (2) Directors to represent employers and are nominated NECA.
- (c) One (1) Independent Director, appointed by the Member representatives and the Employer representatives.

- 2.7.2 The Trustee is satisfied that the current size of the Board is appropriate considering its membership, business operations, and governance requirements. This will be reviewed as part of the Board performance assessment process. The Board may enhance capability of Committees by engaging consultant to assist Committees with governance matters when required.
- 2.7.3 An Alternate Director may be appointed in relation to the Employer Representative Directors and in relation to the Member Representative Directors.
- 2.7.4 The Trustee confirms that the current composition of the Board allows it to meet:
- (a) The requirement that the majority of Directors of the Trustee must be ordinarily resident in Australia.
 - (b) The requirement that the chairperson of the Board be a Director of the Trustee.

2.8 Vacancy

- 2.8.1 If a vacancy occurs for either a Member Representative Director or Employer Representative Director position, the role must be filled within 90 days after the vacancy occurs. This will ensure compliance with the basic equal representation rule in accordance with *Part 9—Equal representation of employers and members—employer-sponsored funds of SIS Act 1993*.
- 2.8.2 A Member Representative Director vacancy may be filled by an existing Member Representative Alternate Director, if appropriate.
- 2.8.3 An Employer Representative Director vacancy may be filled by an existing Employer Representative Alternate Director, if appropriate.
- 2.8.4 Before the appointment of an alternate Director an updated Fit and Proper Assessment must be completed.

2.9 Disputes relating to Nomination, Appointment or Removal of Directors

- 2.9.1 Where there is a dispute relating to nomination, appointment, or removal of a Director occurs, including an Alternate Director, the Trustee will seek independent assistance to resolve the dispute.
- 2.9.2 Suitable providers of dispute resolution assistance might include but are not limited to:
- (a) A barrister or legal practitioner with experience in dispute resolution
 - (b) A dispute resolution practitioner who is a member of the Resolution Institute
 - (c) Services provided by the Australian Disputes Centre
- 2.9.3 The Trustee will seek appropriate independent advice prior to engaging a dispute resolution provider.

2.10 Voting rights

- 2.10.1 Each Director (nominated or independent) present at a meeting of Directors shall have one deliberative vote on any question. Each vote is of equal value.
- 2.10.2 No Director shall have a second or casting vote in addition to his or her deliberative vote.
- 2.10.3 The Board of Directors aim to make most of their decisions on a consensus basis. A minimum of two-thirds of the votes are required to pass a resolution.

2.11 Succession planning

- 2.11.1 The Board will maintain a comprehensive succession plan to ensure the Board is prepared for change and assist current and future Boards prepare for present and future work responsibilities.
- 2.11.2 The use of Alternate Directors is a key element of the Trustee's succession planning.
- 2.11.3 See the standalone Succession Plan document.

2.12 Board diversity

- 2.12.1 The Board recognises that a diverse Board is key to good corporate governance.
- 2.12.2 Board diversity aims to cultivate a broad spectrum of demographic attributes and characteristics in the boardroom.
- 2.12.3 The Board aims to be made up of a mixture of factors like age, race, gender, educational background, and professional qualifications of the Directors.
- 2.12.4 When a new Director is required, the above factors will be considered and discussed with the Member and Employer sponsors.

3. Roles and Responsibilities

Role	Responsibilities
Board of Directors	Ensure compliance with this policy, constitution, Conflict Management Policy, and Fit and Proper Policy.
Audit, Risk & Compliance Committee (ARCC)	Advise and assist the Board on matters relating to this policy. Review the policy annually to ensure it is current and appropriate.
CEO/Company Secretary	Communicate with the Nominating Entities.
Risk & Compliance Manager	Advise and assist the ARCC on matters relating to this policy. Assist the ARCC in the review of this policy annually to ensure it is current and appropriate.

4. Policy Review

4.1 When

4.1.1 This policy will be reviewed at least every two (2) years; or

4.1.2 When one of the following events occurs:

- (a) legislative change occurs that effect the content of the Policy
- (b) the Regulator require a review of the Policy
- (c) the Policy is no longer appropriate; or
- (d) there are reasons to believe that this Policy has failed or may fail.