

Corporate Governance and Reporting Framework

Government Owned Corporations

Document title	Corporate Governance and Reporting Framework
Contact details	Department of Treasury and Finance
Approved by	Under Treasurer
Date approved	
Document review	As required, minimum every five years
TRM number	18:Min22:414

Version	Date	Author	Changes made
1.1	11 May 2017	Economic Policy	Tabled via shareholding minister Direction
2.1	November 2022	Economic Policy	Updated to enhance original governance and accountability measures

Acronyms	Full form
ASX	Australian Securities Exchange Ltd
CSO	community service obligation
CEO	chief executive officer
DTF	Department of Treasury and Finance
FMA	<i>Financial Management Act 1995</i>
GOC	government owned corporation
GOC Act	<i>Government Owned Corporation Act 2001</i>
KPI	key performance indicator
NTER	National Tax Equivalent Regime
NTTC	Northern Territory Treasury Corporation
PSEMA	<i>Public Sector Employment and Management Act 1993</i>
SCI	statement of corporate intent

Contents

1	Overview	4
1.1	Government owned corporations	4
1.2	Purpose of the framework	4
2	Governance	4
2.1	Legal framework	4
2.2	Public information provision	7
2.3	Role of ministers	7
2.4	Department of Treasury and Finance	7
2.5	Board of directors	8
3	Corporate planning	13
3.1	Strategic plan	13
3.2	Statement of corporate intent	14
4	Financial management	18
4.1	Capital structure	18
4.2	Dividends	19
4.3	Borrowings and banking	20
4.4	Community service obligation	20
4.5	Procurement and tendering	21
4.6	Government guarantee	21
4.7	Risk management	21
5	Investment development	22
5.1	Prescribed thresholds	22
5.2	Shareholding minister approval	22
5.3	Regulated investments	23
5.4	Business case requirements	23
5.5	Business case assessment	24
6	Reporting	24
6.1	Quarterly performance reporting	24
6.2	Biannual briefings	26
6.3	Audits	26
6.4	Annual report	27
7	Shareholder performance assurance	27
	Appendix A: Shareholder minister responsibilities	29
	Appendix B: Portfolio minister responsibilities	32

1 Overview

1.1 Government owned corporations

Government owned corporations (GOCs) are commercial entities established by the government to deliver services in markets where government participation is deemed necessary. GOCs may be seen in circumstances of natural monopolies, infrastructure, and strategic goods and services.

The key objectives of the GOCs are to operate a government business at least as efficiently as any comparable business and provide sustainable returns to the Northern Territory on its investment in government businesses.

1.2 Purpose of the framework

The purpose of the Corporate Governance and Reporting Framework is to define the governance, reporting, financial management, investment and corporate planning obligations of GOCs in the Territory.

The framework provides direction and advice as to the processes, timeframes, content and controls associated with the governance relationships between GOCs, shareholding and portfolio ministers, and the Department of Treasury and Finance (DTF).

The framework, together with the *Government Owned Corporations Act 2001* (GOC Act), the enabling legislation for each GOC, and the Territory's Policy Statement on Competitive Neutrality, establish the operating and accountability framework for GOCs in the Territory.

GOCs are expected to fulfil the obligations outlined in this framework together with all other relevant legislative requirements.

The framework has been issued by the Treasurer, as shareholding minister, under Section 8 of the GOC Act.

2 Governance

2.1 Legal framework

The following provides a brief overview and additional detail on relevant sections of the GOC Act. Where there is inconsistency between the below and the GOC Act, provisions of the GOC Act prevail.

Legislation

The GOC Act came into operation on 21 December 2001 and adopts a shareholder model of corporate governance.

Key elements of the shareholder model of corporate governance as adopted by the GOC framework include:

- a GOC established under its own legislation but governed by the overarching GOC Act
- a board of directors fully accountable for the GOC's performance
- a shareholding minister who monitors the financial performance of the GOC

- a portfolio minister who monitors the service performance of the GOC and has broad industry policy responsibilities
- an annual performance agreement (statement of corporate intent (SCI)) between the shareholding minister and the GOC

A GOC is not an agency under the Administrative Arrangements Order. Government businesses are established as GOCs by their enabling legislation and are primarily governed by the GOC Act.

The *Corporations Act 2001* applies to various aspects of the governance of a GOC including director's duties, financial reporting and the requirements for a constitution.

Although the *Financial Management Act 1995* (FMA) does not apply to a GOC, a GOC is included in the government's non-financial public sector accounts for the purposes of government reporting.

A GOC will have interactions with the budget in terms of community service obligation (CSO) funding, capital or recurrent grants from government, dividends paid to government, payments under the National Tax Equivalent Regime (NTER), borrowings from Northern Territory Treasury Corporation (NTTC) and interest and principal repayments on those borrowings. The budget will include analysis of a GOC's contribution to government's fiscal aggregates as well its fiscal strategy targets.

While a GOC is not an agency for the purposes of the *Public Sector Employment and Management Act 1993* (PSEMA) under the Administrative Arrangements Order, the GOC's enabling legislation may prescribe the GOC as an agency for the purposes of PSEMA and any conditions or variations on the application of PSEMA to the GOC.

Constitution

Under section 11 of the GOC Act, a GOC is to have a constitution approved by the shareholding minister. Any amendment to a GOC's constitution must also be approved by the shareholding minister.

The constitution of a GOC is intended to have the same operation and effect in relation to the GOC as a private company's constitution would have in relation to that company, in setting out the rights, powers and duties of: the company, the board, each director and the shareholder.

The shareholding minister may issue guidelines as to what should be included in a GOC's constitution. GOC's constitution may contain matters that for a company would be found in the *Corporations Act 2001* and must be consistent with the GOC Act or any other Act.

Under the GOC Act, the shareholding minister must table a copy of the GOC's constitution and any amendment to a GOC's constitution in the Legislative Assembly within six sitting days after the date on which the constitution or amendment came into effect.

Subsidiaries

Under section 37(4) of the GOC Act, a GOC must not form or acquire a subsidiary unless approved by the shareholding minister. Approval by the shareholding minister will be on such terms as the shareholding minister thinks fit and may include approval of the subsidiary's constitution and requirements around board appointments and reporting obligations. A subsidiary's constitution must include express restriction on the power of the subsidiary, so its powers do not exceed the powers of the parent body.

Where two or more GOCs propose together to establish a public sector subsidiary, they must separately seek the approval of their shareholding minister.

Under section 3 of the GOC Act, a GOC's subsidiaries will be incorporated under and governed by the *Corporations Act 2001*.

A GOC must not dispose of an interest in a company that would result in the company ceasing to be a public sector subsidiary without the prior written approval of the shareholding minister.

Crown immunity

Under section 5 of the GOC Act, a GOC or its subsidiaries are not within the shield of the Crown and do not represent the Territory except by express agreement, in writing, of the shareholding minister.

A GOC cannot render the Territory liable for the debts, liabilities or obligations of the corporation or those of its subsidiaries.

Section 55 of the GOC Act includes transitional provisions to preserve Crown immunity in relation to existing contracts of a government business when it becomes a GOC.

Powers

Under section 50 of the GOC Act, a GOC has, for the performance of its functions, all the powers of a natural person including the power to:

- enter into contracts
- acquire, hold, dispose of and deal with property
- sue and be sued
- appoint agents and attorneys
- charge and fix terms for goods, services and information supplied by it
- engage consultants
- do all other things necessary or convenient to be done for, or in connection with, the performance of its functions.

The GOC Act provides that a GOC may exercise its powers within or outside the Territory and outside Australia.

The legislative power for a GOC to employ staff is addressed in the GOC's enabling legislation and may vary from GOC to GOC.

Restrictions

Under section 51 of the GOC Act, the powers of a GOC are subject to restrictions if expressly imposed by:

- the GOC Act, the GOC's enabling legislation or other relevant legislation
- the GOC's constitution
- the GOC's SCI
- a relevant direction, notification or approval given to the GOC by its shareholding minister or portfolio minister

If a GOC or an officer of a GOC exercises a power contrary to a restriction, that action is not invalid merely because of the contravention.

A person entering into a contract or transaction with a GOC is entitled in normal circumstances to assume the GOC has the power to enter into the transaction. It is not a valid defence that the transaction was inconsistent with the GOC's powers.

However, contravention of the GOC Act or other restrictions may be relied on in proceedings between the GOC's officer(s) and the shareholding minister or the Territory.

2.2 Public information provision

Information provided to the public by a GOC must not promote the interests of a particular political party or provide statements that are misleading or factually inaccurate, and must clearly distinguish a statement of facts from a statement of comments.

GOCs must not participate in any political actions or comment on the views, policies or actions of a political party or political person. This includes both supportive and unsupportive behaviours.

A GOC's shareholding minister may not direct the GOC to participate in any political actions or promotions.

This policy applies to all GOCs, including those not considered to be public authorities for the purpose of the *Public Information Act 2010*.

2.3 Role of ministers

Shareholding minister

In accordance with section 7 of the GOC Act, a GOC will only have one shareholder, the shareholding minister. The shareholding minister holds shares in the GOC on behalf of the Territory.

GOC's are to maintain a register that identifies the current shareholding minister.

The shareholding minister is the Treasurer or another minister nominated by the Chief Minister with the exception of the portfolio minister.

Responsibilities of the shareholding minister

Under the GOC Act, the shareholding minister has separate and distinct powers and responsibilities from the portfolio minister. The shareholding minister is responsible for holding the GOC board accountable for its financial performance.

A list of responsibilities with reference to the GOC Act is provided in Appendix A.

Portfolio minister

Under section 10 of the GOC Act, the portfolio minister is the minister administering the GOC's constituting Act. The portfolio minister is the minister administering the GOC's constituting Act.

The portfolio minister may seek analysis and advice from agencies with responsibility for areas or activities of government relevant to the GOC's operations.

A list of responsibilities with reference to the GOC Act is provided in Appendix B.

2.4 Department of Treasury and Finance

DTF's role is to provide oversight of the financial and governance performance of Territory GOCs to facilitate the effective and efficient delivery of services in line with whole of government public policy objectives.

DTF provides independent analysis and advice to the shareholding minister on the performance of the Territory's GOCs to support informed and transparent decision-making processes.

2.5 Board of directors

Composition of the board

Section 13(1) of the GOC Act requires a board of directors for each GOC.

The board must include at least two non-executive directors. A GOC's constitution is to specify the number of directors and whether the chief executive officer (CEO) is to be a director. The majority of directors on the board should be independent (non-executive directors) to maintain the integrity and impartiality between management and the board¹.

Directors are appointed to a GOC having regard to their capacity to contribute to the board and the expertise necessary for the corporation to discharge its duties and achieve its objectives. The board should maintain an appropriate level of experience, expertise, knowledge and discipline through appropriate succession planning. This may be informed through the development and maintenance of a skills matrix.

The shareholding minister may appoint a government representative as an observer to the board of a GOC to support engagement with government, provide insight into government policy direction and facilitate shareholder oversight.

The shareholding minister may appoint an observer to the board of a GOC via agreement with the board or direction under section 8 or section 30 of the GOC Act.

Board appointment and termination

In accordance with section 13 of the GOC Act, the Administrator may appoint or terminate a non-executive director of a GOC. Appointments and terminations by the Administrator are made on the recommendation of the shareholding minister.

The shareholding minister may advise the GOCs of the procedure for the selection and appointment of new directors to the board, and may seek advice regarding any specific skill gaps.

The shareholding minister may appoint or terminate a person to be an acting director of the GOC under section 14.

An appointment of a director remains in force for a period of less than four years, as determined by the Administrator. Reappointment of a director is not automatic.

Good governance recommends the expiry of director appointments be staggered to avoid the full board's tenure expiring at the same time.

Role of the board

In accordance with section 15 of the GOC Act, the board of directors is responsible for the operation of the GOC and is accountable to the shareholding minister for the GOC's financial performance.

The responsibilities of a board of directors include:

- setting strategic directions, objectives and targets for the GOC
- identifying the major risks for the GOC
- establishing procedures, systems and controls to manage such risks
- establishing an audit committee and any other committee the board considers necessary

¹ Corporate Governance Principles and Recommendations, 4th Edition, ASX Corporate Governance Council February 2019.
Page 8 of 32

- monitoring the GOC's performance and the performance of management in implementing strategic directions and achieving objectives and targets
- reporting to the shareholding minister and portfolio minister
- ensuring the GOC's compliance with legislative requirements
- reviewing the board's overall performance
- appointing the CEO
- reviewing the performance of the CEO
- monitoring the progress of major capital expenditure and cash management
- monitoring the financial performance of the GOC
- reviewing and approving the annual financial statements of the GOC and its subsidiaries
- implementing and reviewing compliance with codes of conduct.

The board is to advise the shareholding minister of any delegation of the board's responsibilities to management in accordance with section 27 of the GOC Act annually prior to the end of each financial year.

Under section 20 of the GOC Act, directors are also subject to the duties and liabilities as specified in Part 2D.1 of the *Corporations Act 2001*.

Consistent with Australian Securities Exchange Ltd (ASX) governance principles², a GOC board should adopt a formal board charter and provide a copy to the shareholding minister.

The charter should detail the functions and responsibilities of the board and include a formalised Code of Conduct detailing what is expected in terms of director conduct (individually and collectively as the board).

The board should implement policies and processes in line with the ASX governance principles and any other appropriate best practice arrangements.

Chair

In accordance with section 18 of the GOC Act, there is to be a chair for each GOC. The shareholding minister may appoint a non-executive director to be chair of the board of a GOC. The shareholding minister may at any time terminate an appointment of a chair.

The chair is responsible for:

- leadership of the board
- being the spokesperson for the board in relation to its responsibilities and accountabilities
- organising and facilitating board meetings
- briefing the shareholding minister in relation to issues arising at board meetings.

² Corporate Governance Principles and Recommendations, 4th Edition, ASX Corporate Governance Council February 2019.
Page 9 of 32

Deputy chair

Under section 19 of the GOC Act, the shareholding minister may appoint a non-executive director to be the deputy chair of a GOC. The shareholding minister may at any time terminate an appointment of a deputy chair.

The deputy chair is to act as the chair of the GOC during the absence or inability of the chair to act in the position of chair.

Chief executive officer

Section 16 of the GOC Act requires a CEO for each GOC. The CEO of a GOC may be a director of the corporation under section 13.

The board may appoint or terminate a person as the CEO of a GOC following consultation with the shareholding minister.

The CEO of a GOC is subject to the directions of the board and is responsible for the day-to-day management of the operation of the GOC.

Under section 17, the board of a GOC may appoint a person to be the acting CEO of a GOC when:

- the CEO is or is expected to be absent from office or unable to exercise his or her powers, or perform the functions under the GOC Act or any other Act
- or there is a vacancy in the office of CEO.

Committees

The board of a GOC may, by resolution, delegate any of its powers and functions to a committee of the board under section 27(1)(b) of the GOC Act.

Section 12 of the GOC Act requires a board of a GOC to establish an audit committee and any other committee it sees fit.

A committee must provide the board of a GOC with advice on any matter referred to it by the board and exercise the powers and perform the functions delegated to it by the board.

Each committee should have a formalised committee charter that clearly sets out its role and responsibilities, structure and membership requirements. At least one member should possess professional technical expertise relevant to the committee's functions.

Audit committee

The audit committee should comprise at least three members with the majority of members (and the chair) being independent, non-executive directors. All members should be financially literate, able to read and understand financial statements, and at least one member should possess relevant professional technical expertise.

The chair of the audit committee must be a non-executive director of the corporation. To maintain independence, the chair of the audit committee should not be the chair of the board.

To maintain independence and transparency, and in accordance with section 12 of the GOC Act, the CEO of a GOC cannot be a member of the GOC's audit committee. However, the CEO should be available to assist the audit committee in its activities.

The audit committee should apply best practice principles set out in the ASX governance principles.

Board remuneration

Under section 24 of the GOC Act, the shareholding minister determines the remuneration (including travelling and other allowances) of non-executive directors (including acting directors) of a GOC or a GOC's subsidiary.

In determining appropriate remuneration for directors, the shareholding minister may look at remuneration levels paid to non-executive directors of similar commercial entities in other jurisdictions and may also request advice from the Remuneration Tribunal.

Duties and liabilities of directors

Section 20 of the GOC Act provides that Part 2D.1 of Chapter 2D of the *Corporations Act 2001* governs the duties of directors and other officers. Directors should be aware of their responsibilities in relation to the *Corporations Act 2001*, and the civil and criminal offence penalties.

The duties of directors and other officers include:

- exercising due care and diligence
- acting in good faith in the best interests of the GOC
- not using their position or knowledge to gain an improper advantage for themselves or anyone else, or cause detriment to the GOC
- avoiding situations where their duty to the GOC conflicts with an external or personal interest
- fully and honestly informing the shareholding minister of all material matters affecting the GOC's business on a timely and regular basis.

Disclosure of interests

The appropriate disclosure of director interests aims to ensure proper disclosure of circumstances that may involve a director in a conflict of interest, and appropriate handling of the conflict if required.

Section 26 of the GOC Act requires that if a director has a direct or indirect interest in a matter being considered or about to be considered by the board, the director must disclose the nature of the interest to a meeting of the board as soon as practicable after the relevant facts come to the director's knowledge. Contraventions may be subject to a civil penalty.

A director who has disclosed an interest must not take part in any further deliberations or decision by the board on the matter, unless the board resolves otherwise and the director himself or herself chooses not to withdraw.

A disclosure at a board meeting must be recorded in the board's minutes and the board must maintain a register of the declared interests of the directors.

Director indemnities

Section 21 of the GOC Act requires that a GOC must not indemnify a person who is or has been an officer (including director) of the GOC against a liability incurred as an officer, or exempt a person who is or has been an officer of the GOC from a liability incurred as an officer.

This does not prevent a GOC from indemnifying a person against civil liability (other than a liability to the GOC or a subsidiary of the GOC) unless the liability arises out of conduct involving a lack of good faith.

A GOC may also indemnify a person against liability for costs and expenses incurred by the person in defending a proceeding, whether civil or criminal, in which judgement is given in favour of the person or

the person is acquitted, or in connection with an application in relation to a proceeding in which relief is granted to the person by a court.

Directors, or the GOC on the directors' behalf, may take out director and officer insurance in respect of potential liability to the GOC for breach of duty.

The Territory Government indemnities continue in respect of the acts or omissions of directors before the business became a GOC.

Where the shareholding minister requires the GOC to undertake an activity on behalf of the government, rather than in the GOC's own interests, the Treasurer may provide a Territory indemnity to directors of the GOC.

Performance evaluation – board, chief executive officer and executive leaders

A key accountability of the board of a GOC is to monitor the GOC's achievements of its strategic plan and annual SCI. Consistent with this accountability, the board should:

- assess the performance of the board as a whole
- establish an annual performance agreement with the CEO and assess the CEO's performance by reference to the agreement
- ensure management has established a performance management framework for the senior executive and broader management team, and monitor the outcomes of performance evaluations of the senior executive team
- monitor the continuing appropriateness and relevance of the GOC's performance and management framework.

In addition, a key responsibility of the chair of the board is to assess the performance of individual board members on an annual basis.

Performance assessment frameworks and key performance indicators (KPIs) will vary between the board as a whole, individual board members and senior executive staff, depending on the responsibilities of each but, at a minimum, should:

- include specific, measurable, relevant and time-bound KPIs covering key financial and operational (including service performance) metrics
- separately identify financial and operational KPIs, including measuring both short and long-term results of the business (or specific business units) against SCI forecasts and reflecting the immediate financial performance challenges, and have a strong budget management focus when assessing CEO and senior executive performance
- align with the business direction, including an assessment of progress towards and achievement of key priorities and initiatives outlined in the strategic plan
- address management of risk and compliance issues.

Performance evaluations should be undertaken annually and focus the board's attention on areas of the GOC's operations that require improvement or change, with strategies to address underperformance documenting accountability and appropriate timeframes.

For board members, and the board itself, performance evaluation should focus on the effectiveness of the board's composition, operations and structure and include (but not be limited to) an assessment of:

- driving the implementation of the strategic plan
- delivering on both financial and operational KPIs and SCI targets

- attendance at and contribution to board meetings and committees
- effective monitoring of CEO performance in accordance with performance agreements and taking appropriate action if required
- constructively engaging with members of the senior executive team to achieve the GOC's strategic plan and SCI targets
- adherence to the Corporate Governance and Reporting Framework and shareholding minister's directions
- stakeholder feedback including, where relevant, the portfolio minister
- performance and effectiveness of the board's committees.

Assessment of the board and individual board members should be led by the board chair, with a suitable non-executive director responsible for the performance evaluation of the GOC chair, including canvassing the views of the other directors³.

An external assessment of the GOC board's effectiveness is to be undertaken at least every three years, including seeking the views of the shareholding minister and portfolio minister. A copy of the external board assessment is to be provided to the shareholding minister and portfolio minister.

The board chair should lead the CEO performance assessment with a report to the board, or relevant committee where appropriate.

The GOC's annual report is to disclose:

- details of the process for evaluating the performance of the board, its committees and members, and the CEO and members of the senior executive team
- whether a performance evaluation has been undertaken in accordance with the process during the relevant year.

Board assurance – chief executive officer performance

Establishing clear accountabilities between the CEO and board helps to align the day-to-day management of the corporation with the overall strategic priorities of the corporation.

A key responsibility of the board is to have in place a performance agreement for the CEO, which is clearly linked to financial and operational KPIs, monitor the CEO's performance and hold the CEO to account to deliver against that agreement.

3 Corporate planning

3.1 Strategic plan

The strategic plan sets out the long-term vision of the GOC and its subsidiaries. It is a critical tool for informing government of a GOC's overall direction and its priorities over the medium term. A GOC's strategic plan is to inform development of the GOC's SCI.

The board of the GOC is to establish a strategic plan for the GOC and its subsidiaries in line with best practice. The senior executive team is to implement the strategic plan.

³ Corporate Governance Principles and Recommendations, 4th Edition, ASX Corporate Governance Council.
Page 13 of 32

The strategic plan should cover a period of five years, and clearly set out the overarching strategic goals, direction and priorities of the GOC and its subsidiaries, taking into account the operating environment and resources, including the financial means available for achieving priorities.

The shareholding minister, in consultation with the portfolio minister, may provide a Statement of Expectation to the GOC, which outlines the minister's expectations of the GOC, the current objectives of the Government for the GOC and any expectations the Government may have on how the GOC should conduct its operations. Shareholder and Government expectations are to be reflected in the GOC's strategic plan and SCI.

Strategic priorities, initiatives and actions for achieving the GOC's goals are to be allocated to each business line unless otherwise advised by the shareholding minister and, where appropriate, provide specific targets against which performance can be measured.

The strategic plan is to be developed in consultation with DTF and relevant agencies, and presented by the board to the shareholding minister for endorsement. A copy should also be provided to the portfolio minister.

The board of a GOC is to report against the strategic plan on a biannual basis.

3.2 Statement of corporate intent

The SCI is the main instrument to outline how the GOC will implement its strategic plan.

The SCI is the formal agreement between the GOC board and its shareholding minister that holds the board accountable for performance to the shareholder and government.

GOC SCIs are to be developed consistent with government's wages policy and the GOC's forward estimates budget model, which will roll the existing SCIs forward in accordance with agreed parameters, with any proposed variances to be supported by rigorous analysis.

Section 40 of the GOC Act requires the SCI to specify the following information:

- objectives of the GOC and its subsidiaries
- the nature and scope of activities to be undertaken by the GOC and any subsidiaries along with future developments and their financial impacts
- the nature and scale of material risks faced by the GOC and strategies to minimise those risks and their potential financial impact
- strategies to improve the financial performance of the corporation and how to measure that performance, and determine whether strategies have been successful
- capital investment plans of the GOC
- financial targets, milestones and other operational performance measures by which the performance of the GOC and any subsidiaries may be judged
- accounting policies to be applied in the accounts of the GOC
- any other matters that may be agreed on by the shareholding minister and the board.

The SCI should also include:

- details of how the GOC will implement its strategic plan
- assumptions about the business environment in which the GOC operates
- details of the GOC's financing of investments and borrowings

- social programs, corporate sponsorship and non-commercial activities, including those funded through CSO payments.

Key performance indicators

A GOC's SCI is to outline how it proposes to meet its obligations as a GOC through the articulation of measurable and verifiable KPIs. This ensures the shareholding minister can hold the board accountable for the GOC's performance. These KPIs, to be developed in consultation with DTF, are to be targeted and relevant to the success of the GOC, include both financial and operational metrics, adopt commercial operational benchmarks, be provided by line of business and be consistent with the GOC's strategic plan.

On request by DTF, GOCs are to provide any financial models developed to support the SCI. Financial models are to be readily auditable and meet modelling best practice with clearly defined and integrated assumptions and inputs.

In preparing its SCI, the GOC should consider relevant general government policies and strategic directions.

Development of financial targets

Setting appropriate financial targets aims to ensure goods and services are priced appropriately and operations are undertaken efficiently, and provides an environment that adheres to the principles of competitive neutrality.

All GOCs are required to add to shareholder value in their operations. The SCI needs to set out the financial targets, which should include, where appropriate:

- return on assets
- return of equity
- earnings before interest, tax, depreciation and amortisation
- earnings before interest and tax
- debt to equity or other gearing ratio
- revenue and expenditure growth
- controllable costs.

The GOC's board will nominate financial targets for the shareholding minister's consideration. Targets should reflect the GOC's strategic plan, relevant industry benchmarks and comparable businesses, while taking account of the capacity of the corporation.

The shareholding minister and the GOC will agree on the methodology to be used to measure performance against its principal financial targets and any other financial targets. These measures will be based on increasing shareholder value and achieving an improved fiscal position for the Territory.

Financial targets should not be adjusted for any unfunded components of CSOs, unless otherwise agreed with the shareholding minister.

Capital and other investments

All planned investment projects should be included in the SCI to illustrate the GOC's complete investment plan.

Investment projects that are planned for the budget year of the SCI submission and above prescribed thresholds can only be included in SCIs if they have received prior approval by the shareholding minister

under section 37 of the GOC Act, or a robust business case is provided with the first draft SCI. Business cases assessed by a regulatory authority can be used for this purpose.

Estimates for expenditure on capital projects yet to be approved should be included in the outer years as a guide. The shareholding minister's approval of the SCI does not provide final approval of expenditure on capital projects in the outer years, unless the minister approves expenditure in accordance with section 37 of the GOC Act.

Consultation with DTF and the shareholding minister is to be undertaken during preliminary stages of significant investments to facilitate transparent investment planning and assist with the assessment process.

Investments requiring the shareholding minister's approval must be supported by a robust business case.

Refer to section 5 *Investment development* for further detail on prescribed thresholds and requirements for business cases.

Disclosure of material variation to the SCI

In addition to regular reporting requirements, a GOC is required to ensure the shareholding minister is provided timely advice on events and developments likely to or have impacted the achievement of key objectives, financial targets and KPIs set out in the GOC's SCIs.

Section 15 of the GOC Act states if the board forms the opinion that matters have arisen that:

- may prevent, or significantly affect, achievement of the objectives of the GOC (or its subsidiaries) as contained in the GOC's SCI
- or may prevent, or significantly affect, achievement of the targets contained in the GOC's SCI

the board must immediately notify the shareholding minister of its opinion and reasons for the opinion.

At a minimum, the board is to notify the shareholding minister should it forecast or become aware of an unfavourable variation in total revenue, total operating expenditure or total capital expenditure of 5% or more for the budget year, compared to the SCI target.

This does not absolve the board from notifying the shareholding minister and other relevant ministers of any matters that may affect the achievement of measures and objectives included in the GOC's SCI.

Notification should include details on whether events are within or outside of the GOC's control, the expected impact on achieving SCI targets and proposed actions to address such events.

Timing and procedures for SCI

While the GOC Act provides a legislated timeframe for SCIs to be finalised, it is preferred that GOC SCI's are finalised concurrently with the Territory budget.

Each year, DTF will write to GOCs to outline the SCI timetable (as soon as the date is set for the budget to be tabled in the Legislative Assembly).

The board of a GOC must submit the draft assumptions, draft SCI financials and KPI targets, complete SCI and final SCI for the shareholding minister's consideration in accordance with the dates provided by DTF.

The board is required to consult in good faith with the shareholding minister on the draft SCI and make changes as agreed prior to delivering the final document. Where the board does not agree with a change to the SCI proposed by the shareholding minister, the shareholding minister may direct the GOC to include or remove specific elements contained within the SCI. The board, with the shareholding minister's agreement, may modify the SCI.

While a GOC's SCI is a public document, it is acknowledged it may contain commercial-in-confidence information. The shareholding minister may remove any information from the SCI considered to be of a commercially sensitive nature prior to tabling it in the Legislative Assembly.

It is the responsibility of the GOC to justify why any information should be removed before the SCI is tabled. This decision is at the discretion of the shareholding minister.

Table 1 provides an indicative timetable for the SCI cycle.

Table 1: Indicative timetable for the SCI cycle, providing Budget Day is mid-May

Date	Action
Late November	GOC provides DTF with first draft of the assumptions used as basis for SCI projections (statements of financial performance, financial position and cash flows) and KPIs.
Mid December	Officer-level meetings to discuss the assumptions.
Mid January	GOC provides DTF with first draft SCI financials and any business cases for the budget year.
Late January	DTF and GOC officer-level meetings to consider the draft projections and SCI content.
Early February	Shareholding minister briefed by DTF on the SCI and the financial projections proposed.
Mid-February	GOC provides DTF with the first draft of the complete SCI as noted by the board.
March (post Budget Cabinet)	DTF to provide feedback on first draft of complete SCI, including provision of full financials.
End March	Proposed final SCI submitted formally to shareholding minister (after informal agreement with DTF) and agreed by shareholding minister.
Mid-April	Treasurer reviews and approves the SCI.
Late April	SCI printed and public version ready for tabling.
2nd week of May	SCI tabled in Legislative Assembly by shareholding minister.
End September	SCI reporting presented to shareholding minister ready for tabling.

The budget estimates process provides an opportunity to examine the activities, performance and financial management of the GOCs, with reference to each corporations' SCI.

Reporting against statement of corporate intent

Section 41 of the GOC Act requires a report on the corporation's performance in relation to its SCI be provided to the shareholding minister and portfolio minister within three months after the end of each financial year, to be tabled in the Legislative Assembly.

Reporting must compare actual performance against the budgets and forecasts contained in the latest SCI with commentary on the underlying causes of variations and actions taken to address the variations.

Financial statements should be in a format comparable with that provided in the latest SCI.

Qualitative and quantitative commentary is to be provided for all financial and operational performance indicators included in the SCI.

This reporting requirement can be met through including the information in the annual report, however a separate report is also acceptable.

4 Financial management

While GOCs operate outside of the FMA, the financial performance of GOCs can have a significant influence on the Territory's fiscal and financial outcomes. Therefore, government has developed separate financial management requirements to ensure GOCs apply best practice principles and operate transparently.

Parts of a GOC's business will also be captured in the Territory budget through separate payments to the GOC, such as CSOs and grants or payments from a GOC to government including dividends, interest and tax equivalent payments.

Further, a GOC's financial results are reported as part of the public non-financial sector in whole of government reports.

4.1 Capital structure

A GOC should target an optimal capital structure (that is, the combination of debt and equity used to fund the assets of the GOC) as agreed by the board and shareholding minister.

Section 32 of the GOC Act allows the shareholding minister to determine or alter the capital structure of a GOC, following consultation with the board and the Treasurer.

The board of a GOC may make a recommendation to the shareholding minister as to the capital structure, including by converting debt to equity or equity to debt, repaying equity, transferring assets and altering the equity base.

When determining the capital structure for a GOC, a cash flow-based risk analysis should be undertaken in order to determine the debt capacity of the business and may include:

- developing a business profile
- reviewing business plans and forecasts
- undertaking business risk analysis
- constructing a model to analyse cash flows
- undertaking sensitivity analysis of the impact of key variables on the cash flows.

GOCs should set a capital structure range to provide flexibility to meet changing market conditions that may require unforeseen expenditure and establish a GOC's value that is relatively unaffected if its capital structure varies within these parameters. The width of the range will vary for each GOC, depending on the volatility of its cash flows and the competitiveness of the market in which the business operates.

When reviewing a GOC's capital structure and range, the following issues are to be considered:

- target debt ratios that should be no larger than can be prudently serviced and consistent with businesses of comparable size and operations

- forecast level of capital expenditure in the SCI, including options for funding expenditure and long-term objectives to ensure the assessment takes into account the future direction of the GOC
- meeting the requirements of competitive neutrality, that is, the GOC should receive no net advantage either from differences in the capital structure compared with private sector counterparts or from other factors
- regulatory benchmarks for businesses of comparable size and operations, and credit agency ratings that help assess the quality of a business's capital structure
- individual capital investment proposals apply an appropriate hurdle rate that has considered the relevant factors such as the level of competition, market volatility and project risks.

In line with specific legislative provisions, the shareholding minister, after consultation with the board and, where applicable, the relevant portfolio minister, can direct a GOC to repay capital to the Territory.

A GOC should review its agreed capital structure and range from time to time to ensure it remains appropriate, based on current business operations and future strategic direction, and continues to deliver shareholder value.

4.2 Dividends

The Territory, as owner, should be paid an appropriate dividend in return for government's investment in a GOC.

The key elements underlying dividend payments are:

- net profit after tax in accordance with the NTER
- liquidity and capital requirements of the GOC
- the appropriate capital structure of the GOC
- the Territory's budgetary requirements.

Dividends include ordinary dividends and special dividends.

Ordinary dividends are paid on an annual basis from after-tax profits. GOCs may make provision for payment of an ordinary dividend in annual financial accounts or declare a payment of dividend subsequent to reporting date.

A preliminary estimate of the dividend is identified as part of the budget process to facilitate whole of government fiscal planning. The GOC board is to provide the recommended dividend to the shareholding minister no later than one month after the financial year, to enable the minister time to consider the recommendation in accordance with section 31 of the GOC Act, before the GOC's financial statements are forwarded to the Auditor-General.

The government's default policy is a dividend of 50% of net profit after tax, however an alternative dividend amount can be agreed between the shareholding minister and board or determined at the direction of the shareholding minister under section 31 of the GOC Act. GOCs with financial capacity to pay dividends based on payout ratios above 50% are expected to do so.

A GOC's dividend may be set lower than the standard reference point of 50% where such a commitment would:

- constrain the business from undertaking approved value-adding investment opportunities
- or negatively impact the GOC's financial sustainability as measured by key financial ratios such as gearing levels and debt servicing capacity.

Payment of the dividend is due within 60 days after the audited financial statements are completed or by 1 December in each year, whichever is earlier.

Special dividends refer to dividends paid out of accumulated profits or capital reserves and may be made based on the recommendation of the board or at the direction of the shareholding minister.

4.3 Borrowings and banking

The NTTC performs the role of banker for all GOCs and all borrowing should be sourced through NTTC. As NTTC can supply funds on more favourable terms than could be obtained by comparable private sector firms, GOCs could experience advantages by virtue of their public sector ownership. To mitigate this advantage, NTTC charges a lending margin that results in interest rates comparable to those offered commercially.

Under section 35 of the GOC Act, a GOC may only borrow money other than from NTTC with the approval of the shareholding minister.

Before seeking approval to proceed with the borrowing, a GOC should develop a comprehensive business case. If approved, the GOC would be required to pay a competitive neutrality fee if the shareholding minister determines the GOC would experience a competitive advantage. Forecasted borrowing drawdowns and repayments must be included in the final SCI agreed between the GOC and the shareholding minister.

GOCs with an approved borrowing program must hold quarterly meetings between the chief financial officer of the GOC or an appropriate delegate and representatives of NTTC to ensure they are updated on any required changes arising to borrowing requirements identified out of the quarterly re-forecast process.

A GOC will operate its bank accounts within the existing whole of government banking contract. This arrangement facilitates effective cash management and is a key fiscal strategy for the Territory.

The banking contract establishes performance criteria, describes the fee structure and specifies the products and services available under the Banking Contract.

Fees and charges relating to the operation of a GOC's bank accounts and banking products and services provided under the Banking Contract will be charged at the rates designated in the central Banking Contract.

A GOC will develop financial management policies and procedures, as approved by the board, and apply appropriate controls with respect to the operation of any bank account established for a GOC.

A GOC board is to ensure appropriate policies, procedures and controls are in place for managing the risks associated with foreign currency transactions associated with capital and operational projects.

4.4 Community service obligation

Section 28 of the GOC Act defines a CSO as an activity with an identifiable community or social benefit that would not be undertaken if only commercial considerations applied.

As CSO activities detract from the GOC's goal to operate as efficiently as a private sector business, CSOs can only be undertaken with the agreement of the shareholding minister.

CSO activities must be undertaken efficiently and transparently to ensure government funding is applied prudently, and each CSO activity must be costed and identified separately.

As CSO activities are directly funded by the government, CSO funding forms part of the annual budget process and is subject to Cabinet approval.

4.5 Procurement and tendering

A GOC may require a degree of flexibility in its procurement arrangements to ensure these best meet its commercial needs.

Section 36 of the GOC Act allows a GOC to develop its own procurement policy for approval by the shareholding minister. The shareholding minister must consult with the portfolio minister before approving a GOC's procurement policy.

A GOC's procurement policy should be consistent with the principles of the Government's procurement policy. In the absence of an approved GOC procurement policy, the *Procurement Act 1995* and policies issued under the Act continue to apply.

In March 2017, in accordance with section 8(4)(c) of the GOC Act, the shareholding minister directed the GOCs comply with the Territory Government's strengthened 'Buy Local' reforms.

As GOCs operate on a competitive basis, they do not have to comply with the Northern Territory Government Competitive Tendering Guidelines and may tender in competition with the private sector for government projects without the need for external approval.

4.6 Government guarantee

The government (Crown) does not guarantee the obligations of a GOC, including any associated subsidiaries or special project vehicles. However, under section 34 of the GOC Act, the Treasurer may agree that a government guarantee be provided where the GOC is required to undertake an activity outside its normal commercial functions.

Where the government agrees to provide a guarantee, a formal guarantee will be prepared by DTF or relevant government agency. The guarantee will establish the services undertaken by the GOC to be covered, limitations of the guarantee and the length of the agreement.

GOC officers are prohibited from:

- providing any written note or oral representation that could imply government assistance would be forthcoming in support of difficulties associated with a financial arrangement in which the GOC has a stake
- entering into contractual arrangements or undertakings that would produce the effect of an actual or contingent obligation on government to support a GOC.

4.7 Risk management

A GOC's board is ultimately accountable for setting the GOC's risk appetite and ensuring risks are managed in accordance with this. To this end, GOC boards should:

- ensure management has established a framework for identifying and managing risks that is consistent with good industry practice
- monitor the risks identified by management to ensure their continuing relevance
- monitor the management of identified risks to ensure appropriate risk mitigation processes are in place
- periodically review the GOC's processes and practices to identify and manage risk.

A risk management program should identify common areas of concern for the GOC including but not limited to:

- physical risks such as disaster and emergency planning and environmental
- market risks such as changes in technology and competition
- product risks such as interruptions to service supply
- financial risks such as liquidity and asset management.

The GOC's SCI should include a summary of identified strategic risks, an outline of the approach to identifying and managing risk, and confirm the GOC has adequate systems and expertise in place to achieve compliance with its risk management policies and practices.

5 Investment development

5.1 Prescribed thresholds

Under sections 37 and 38 of the GOC Act, a GOC must not undertake, acquire or dispose of a capital investment or financial investment⁴ above relevant prescribed thresholds unless approved by the shareholding minister.

An investment that exceeds the prescribed threshold must have the written approval of the shareholding minister prior to proceeding, unless it is the result of an emergency situation or is required to maintain public safety or energy system security, in which case they require the shareholding minister's notation as soon as practicable after the event.

Prescribed thresholds are to be agreed between the board and the shareholding minister, or will be determined by the shareholding minister should agreement not be reached.

Multi-staged investment proposals that require board approval at each stage of the process are to be treated as a single investment in terms of the prescribed threshold.

DTF will periodically review the prescribed thresholds applied to GOCs and, where appropriate, recommend changes to the thresholds for approval by the shareholding minister.

In recommending prescribed thresholds for the GOCs, DTF is to adopt a risk-based approach that considers the overall size of GOC business and the capital intensity of the business, and affords the shareholding minister an appropriate level of oversight while not imposing unnecessary administrative burden on the GOCs.

5.2 Shareholding minister approval

GOCs must provide the shareholding minister with a completed business case for investments over the prescribed threshold, and any other relevant supporting documentation as part of the approval process.

Project timeframes should include sufficient time for the shareholding minister to consider the business case and provide a decision.

The approval of a business case does not infer the project must proceed despite market conditions changing, the project becoming unviable or a GOC's priorities shifting over time. GOCs are expected to adapt to changing market conditions and only undertake investments that produce an appropriate rate of return.

⁴ Section 2 of the *Financial Management Act 1995* provides guidance around what constitutes a financial investment, which includes: shares, securities, deposits, debentures, promissory notes, futures contracts traded on a prescribed financial market, or in notes, certificates, bonds, swaps or bills of exchange.

The shareholding minister should be informed of any material changes that could impact the benefits, risks, costs and delivery of projects that have received approval.

Under section 37(4) a GOC must not form or acquire a subsidiary, trust, joint venture or other similar arrangement with a third party or undertake a capital or financial investment outside of the Territory unless approved by the shareholding minister, or otherwise agreed between the shareholding minister and the GOC board.

5.3 Regulated investments

Investments in monopoly environments may be subject to economic regulation by an independent regulatory authority.

An investment approved by the shareholding minister should only be progressed if it falls within the level of investment determined efficient by the regulatory authority. If the shareholding minister determines an investment should be undertaken that falls outside a determination, alternative financial arrangements are to be negotiated with the shareholding minister.

To minimise duplication, business cases provided to the regulatory authority should be used to fulfil the business case requirements for the shareholding minister.

5.4 Business case requirements

A business case should examine total lifecycle costs, benefits, risks and implementation requirements of the investment. Business cases should state the basis for estimating the set-up costs and ongoing operating costs, including stating the degree of accuracy of the estimates.

At a minimum, the business case should:

- identify the rationale for the project, including the unmet demand or service standards that cannot be addressed through existing assets
- outline how the project supports the implementation of the strategic plan
- consider a range of options
- reference the procurement and implementation strategy
- include a robust assessment of capital and operational costs, development timeframes and financing
- demonstrate that the preferred option will sufficiently improve financial performance to warrant undertaking the investment
- include measurable targets and goals for the investment
- describe the scope and timing of the service and expected impacts on service levels
- provide the level of detail appropriate to the scale, complexity and risk of the proposal. Technical terminology and jargon should be kept to a minimum.

The extent of evidence required for a business case should be proportionate to the value and risk of the project or program. A high-value or high-risk project may require a greater level of supportive evidence.

On request by DTF, GOCs are to provide any financial models used to support business cases.

5.5 Business case assessment

Once a business case is received, the shareholding minister will assess the business case in consultation with DTF.

The assessment of a business case will consider:

- whether the project aligns with the strategic plan
- whether a project is commercially sound
- if the project enhances shareholder value
- the outcomes for customers
- whether the project gives rise to any broader public policy issues for government
- the proposed governance arrangements
- the risk management strategies and a gap analysis for any unidentified risks

Best endeavours will be made to undertake assessments within two weeks of receiving a final business case, however, assessments of complex proposals may take longer.

GOCs are encouraged to provide draft business cases and consult with DTF early in project development.

6 Reporting

The following reporting requirements apply to both GOCs and their subsidiaries.

6.1 Quarterly performance reporting

The quarterly performance reporting process consists of two parts:

- data and supporting information required to undertake whole of government financial reporting (Treasurer's quarterly financial statements)
- a report that details operational and financial performance (quarterly performance report).

Treasurer's quarterly financial statements

Section 8 of the FMA requires the Treasurer to prepare financial statements for each quarter and publish in the Gazette. This reporting is compiled for the non-financial public sector, which includes GOCs.

The following information is to be provided to DTF quarterly:

- financial statements including a profit and loss statement, balance sheet and cash flow statement, with year-to-date figures
- asset reconciliation spreadsheets identifying asset classes with opening balances, transactions such as transfers, additions, sales, depreciation, accumulated depreciation, impairments and revaluations, and closing year-to-date position
- trial balance with accounts mapped to the Territory's standard classification codes

Accounts must specify source destination codes to identify the entities that GOCs are transacting with and allow for the elimination of intra-government transactions from the consolidated statement.

Information must be provided by the 15th day following the end of the quarter to allow sufficient time for quality assurance and resolution of any consolidation differences.

Quarterly performance report

Each quarter, the board must provide a report to the shareholding minister and the portfolio minister containing the following information against targets contained in the SCI (including those applicable to subsidiaries):

- a profit and loss statement comparing year-to-date actuals with year-to-date budgets, and year-end forecasts with the full-year budget
- a capital expenditure program comparing year-to-date performance with year-to-date budgets, and year-end forecasts with the full-year budget
- commentary on unfavourable variations as defined by section 3.2
- commentary on material variations, including expenditure and revenue variations from budget, or where significant risks have been identified for each line item and capital project
- results for KPIs (financial and operational) for the quarter and year-to-date (actual against budget) and commentary for material variances
- the financial statements should be in a format comparable with that provided in the SCI
- commentary on the above should reflect the underlying factors driving the variance, and detail corrective actions and strategies taken or intended to be taken to address underperformance.

The GOC quarterly performance report must also provide details of approved borrowing requirements, including cash flow forecast and forecast drawdowns and repayments, over the next two quarters.

Financial reporting is to be provided by each business line and subsidiary.

Quarterly performance reporting will be conducted for the September, December and March quarters. The results for the June quarter will be captured as part of the full-year financial monitoring conducted through the audit and annual report processes.

Explanations on material variations of actual performance to budget may be used within commentary in Treasurer's Quarterly Financial Report publications.

Representatives from DTF and the GOCs are to meet each quarter to discuss the performance reports.

Table 2 outlines the quarterly reporting timeframe.

Table 2. Quarterly performance report – reporting timeframe

Quarter report	Information provided	DTF meeting
Q1 report (July-September)	On or before the last business day of October	Prior to end the second week of November
Q2 report (October-December)	On or before the last business day of January	Prior to end the second week of February
Q3 report (January-March)	On or before the last business day of April	Prior to end the second week of May

Note: GOCs are required to provide details of their forecast borrowing program for the June quarter on or before the last business day of July.

6.2 Biannual briefings

The board is to provide the shareholding and portfolio ministers with a high-level briefing covering progress against the strategic plan during the first half and at the end of the financial year.

Biannual presentations are to include, among other things, status of strategic priorities, achievement of priorities, key financial and operational performance indicators, material impediments to progress, immediate challenges facing the business and proposed board responses.

Shareholder meeting

Upon consideration of the quarterly performance and biannual progress reports, the shareholding minister may request to meet with the board or representatives of the board, the CEO and chief financial officer. The shareholding minister may invite representatives from DTF to the meeting.

6.3 Audits

Financial statements

In accordance with section 42(1) of the GOC Act, a GOC must forward to the Auditor-General the financial statements to be included in an annual report prepared under section 44(1) of the Act.

A GOC must forward the financial statements to the Auditor-General within two months after the end of each financial year or another period specified by the shareholding minister.

In preparing the financial statements, a GOC must comply with the *Corporations Act 2001*. In particular, the financial statements and notes must give a true and fair view of the financial position and performance of the GOC, any subsidiaries and the consolidated entity.

Audit of financial statements

The Auditor-General must audit the financial statements submitted by a GOC within one month after receiving them or within another period determined by the Administrator.

The Auditor-General reports on the financial statements to the board of the GOC for inclusion in the GOC's annual report.

The GOC pays a fee for the audit of its financial statements, with the Auditor-General determining the fee after consultation with the GOC.

Other audits

The Auditor-General may conduct an audit of a GOC under the *Audit Act 1995*. Sections 16 and 21 of the *Audit Act 1995* apply in relation to a GOC as if a reference in those sections to 'accountable officer' and 'agency' were a reference to 'the board of a government owned corporation' and 'government owned corporation', respectively.

In addition to financial audits, the *Audit Act 1995* provides the Auditor-General with the power to undertake audits of performance management systems. While comparable private companies would not be subject to any similar arrangement, this is an appropriate accountability requirement for a publicly owned corporation.

The Auditor-General may also be requested to undertake special audits by the shareholding minister. These may relate to any aspect of performance, systems or accounts. The shareholding minister may also request an outside auditor to undertake special audits.

6.4 Annual report

Section 44 of the GOC Act requires a report on the GOC's performance be prepared following each financial year.

A GOC must prepare and give to the shareholding minister an annual report of the operations of the corporation and of its subsidiaries during each financial year that conforms to the requirements of similar reports under the *Corporations Act 2001*.

The annual report is to include:

- financial statements for that financial year, including financial statements by business lines, that comply with the requirements of the *Corporations Act 2001* and, if the corporation has subsidiaries, the requirements of that Act relating to consolidated financial statements
- the Auditor-General's report on the financial statements
- all information required by the shareholding minister to enable an informed assessment of the operations of the corporation and its subsidiaries.

The reports will include commentary on specific factors affecting performance, risks, strategic issues and other relevant matters.

Separate financial statements by business line and subsidiary are to be incorporated into the annual report.

Consistent with section 3.2 of this document, reporting requirements on a GOC's performance in relation to its SCI can also be included in the annual report.

As GOCs form part of the Northern Territory's whole of government fiscal position, financial information included in annual reports are required for consolidation into the Treasurer's Annual Financial Statements (TAFS).

The TAFS are required to be publically released no later than 31 October each year, or upon finalisation of the TAFS audit if earlier, and tabled in the Legislative Assembly sittings. Accordingly, GOCs are also required to provide a copy of the draft financial statements and notes to DTF, when presented to the Auditor-General. Any changes made to the financial statements subsequent to provision of draft reports, must also be provided to DTF as soon as possible.

Other additional information may be requested by DTF, that is necessary for the consolidation of data into the whole of government accounts and preparation of notes to the TAFS.

7 Shareholder performance assurance

It is important the shareholding minister is confident that the board applies due consideration to the setting of the GOC's targets and KPIs and they are fit for purpose, and meet all information and reporting requirements.

There are limited options currently available for the shareholding minister to hold GOC boards to account for the performance of the GOCs and ensure key performance and reporting measures are adhered to.

Under the GOC Act, the shareholding minister can recommend to the Administrator to terminate the board (s13 of the GOC Act) or to reduce the board's remuneration (s24 of the GOC Act).

The following process provides for issues to be addressed administratively prior to considering legislated options available to the shareholding minister. The process may be invoked when the shareholding minister is dissatisfied with the performance of a GOC or in situations when a GOC fails to meet financial or operational targets, reporting requirements and timeframes, or fails to comply with a direction of the shareholding minister under section 8 or section 30 of the GOC Act.

Step 1: Shareholding minister issues a letter to the GOC advising of non-compliance and requesting an explanation and corrective action.

Step 2: GOC board is to provide an explanation, corrective action and timeframe for resolution to the shareholding minister.

Step 3: Shareholding minister accepts GOC corrective action or requests revised actions to be developed.

Step 4: Outcomes of corrective action to be monitored and reported to shareholding minister.

Step 5: Shareholding minister may accept outcomes, request further action be taken or consider applying relevant provisions under the GOC Act should corrective action fail to address concerns.

This process seeks to provide GOC boards with the opportunity to respond to the shareholding minister's concerns around performance and non-compliance through the provision of explanatory information, implementation of corrective actions and reporting of outcomes.

The above steps set out the general approach that may be followed, however the process does not limit the shareholding minister's discretion in respect to performing functions and exercising powers under the GOC Act.

Appendix A: Shareholder minister responsibilities

Shareholding minister responsibility/duties	Relevant section(s) of <i>Government Owned Corporation Act 2001</i>
Holds the GOC shares on behalf of the Territory.	Section 7: Share capital, shares and shareholder
Can request information about the GOC's performance and activities.	Section 8: Shareholding minister may give directions Section 47: Other information to be provided
Can direct the board of the GOC (after consultation with the board and the portfolio minister) to take specific actions with such directions to be tabled in the Legislative Assembly, including determining which public sector policies apply to the GOC and direct the GOC to act in a certain manner or undertake a certain task if it is in the public interest.	Section 8: Shareholding minister may give directions Section 29: Shareholding minister may notify board of public sector policies Section 30: Shareholding minister may give directions in public interest
May delegate their powers or functions (but not to the portfolio minister).	Section 9: Delegation by shareholding minister
May approve a proposed or amended constitution and issue guidelines for the constitution and table to the Legislative Assembly.	Section 11: Constitution of government owned corporations
Must recommend a director for the person to be considered for appointment or for termination. May also appoint or terminate acting directors, chair and deputy chair.	Section 13: Directors of government owned corporations Section 14: Acting directors Section 18: Chair Section 19: Deputy chair
Monitors the corporation's performance through the receipt and analysis of regular reports from the GOC (that is, the board is accountable to its shareholding minister and must notify the minister of any matters affecting performance-related issues).	Section 15: Accountability of directors of government owned corporations
The appointment or termination of a CEO or an acting CEO may be made only after consultation with the shareholding minister.	Section 16: Chief executive officer Section 17: Acting chief executive officer
May determine, alter or revoke remuneration paid to a non-executive director or an acting director.	Section 24: Remuneration

Shareholding minister responsibility/duties	Relevant section(s) of <i>Government Owned Corporation Act 2001</i>
<p>May determine (in consultation and agreement with the GOC) CSOs, and may direct the GOC to undertake, or not undertake, a CSO and table in the Legislative Assembly.</p> <p>Must ensure appropriate financial arrangements are made, and consult with the portfolio minister and Treasurer before undertaking any of the above actions.</p>	Section 28: Community service obligations
<p>May agree on or direct a dividend payment to the Territory from the GOC and table the direction with the Legislative Assembly.</p>	Section 31: Dividends
<p>Can determine or alter the GOC's capital structure (after consulting with the board and Treasurer).</p>	Section 32: Capital structure
<p>Must approve borrowings not sourced from the NTTC.</p>	Section 35: Borrowings
<p>Approve the GOC's procurement policy following consultation with the portfolio minister.</p>	Section 36: Procurement
<p>Must approve the formation or acquisition of a trust, joint venture or other similar activity involving a third party.</p>	Section 37: Investments by government owned corporations
<p>Must approve, after consulting with the Treasurer, capital investments, and acquisition of financial interests and disposals of investments above the relevant prescribed threshold.</p> <p>May agree with the board on the relevant prescribed threshold or, if no agreement is reached, determine threshold without the board.</p>	<p>Section 37: Investments by government owned corporations</p> <p>Section 38: Disposal of investments</p>
<p>Must receive a draft SCI and may consult with and direct the board to modify it.</p> <p>Must table the SCI, in the Legislative Assembly within the relevant timeframes and determine what information is available for public release.</p>	<p>Section 39: Statement of corporate intent – timetable and procedure</p> <p>Section 41: Statement of corporate intent – reporting</p>

Shareholding minister responsibility/duties	Relevant section(s) of <i>Government Owned Corporation Act 2001</i>
<p>Must receive the annual report (after an Auditor-General review) and table it in the Legislative Assembly.</p> <p>May require information regarding the operations of the GOC and its subsidiaries to be included in the annual report and specify a time period in which the GOC must provide financial statements to the Auditor-General.</p>	<p>Section 42: Corporation to provide financial statements to Auditor-General</p> <p>Section 44: Annual reports and accounts</p>
<p>May request Auditor-General or other auditor to conduct an audit, including a special audit.</p>	<p>Section 46: Special audits</p>
<p>May approve a business or trading name in writing to be used by the GOC.</p>	<p>Section 51A: Business or trading names</p>
<p>Must take all practical steps to ensure the effect sought to be achieved by transfer regulations is achieved in a case where an impediment arises (for example, a law from another jurisdiction).</p>	<p>Section 53H: Completion of necessary transactions</p>
<p>May (by Gazette notice) make a correction order to rectify an error in regulations within six months of transfer date if the error can't be rectified by further regulations.</p>	<p>Section 53Q: Minister may make correction order</p>
<p>May give and table in the Legislative Assembly (within six months of transfer date) a direction to the GOC that facilitates making transfer regulations, prepares the transfer of business affected by transfer regulation or gives effect to the transfer of business.</p>	<p>Section 53T: Ministerial directions</p>

Appendix B: Portfolio minister responsibilities

Portfolio minister responsibility/duties	Relevant section(s) of <i>Government Owned Corporation Act 2001</i>
Must be consulted before the shareholding minister and the GOC undertake CSOs and provide finance.	Section 28: Community service obligations
Must be consulted before the shareholding minister directs the board in respect to which public sector policies apply to the GOC or gives directions requiring the GOC to act or undertake tasks in the public interest.	Section 29: Shareholding minister may notify board of public sector policies Section 30: Shareholding minister may give directions in public interest
Must be consulted regarding a GOC's procurement policy prior to the shareholding minister providing approval.	Section 36: Procurement
Must receive a copy of the report on the GOCs performance in relation to SCI.	Section 41: Statement of corporate intent – reporting
Can request information about the GOC's performance and activities.	Section 47: Other information to be provided
Must take all practical steps to ensure the effect sought to be achieved by transfer regulations is achieved in a case where an impediment arises (for example, a law from another jurisdiction).	Section 53H: Completion of necessary transactions