



CRCs GOVERNANCE & MANAGEMENT

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This Guide is part of a series of Guides aimed at industry, including small and medium enterprises, and others who are new to the CRC Program.

INTRODUCTION

Cooperative Research Centres (CRCs) are engines of innovation for Australia.

An initiative of the Australian Government, CRCs bring together the best minds from research and industry to work as a team.

Together, and driven by the needs of private, public or community end-users, CRCs turn research results into products, services and technologies and address national priorities within a local and global context.

This Guide has been developed by the CRC Association to help interested parties, both current and potential CRC partners, plan and implement their governance structures and management processes. It is part of a series of CRC Association Guides focused on providing useful information about the CRC Program to industry and other end-users, including small and medium enterprises (SMEs) and organisations unfamiliar with the CRC Program.

RATIONALE AND REQUIREMENTS

The CRC Program Guidelines state that ‘all CRCs (whether incorporated or unincorporated) must employ a governance model which demonstrates good practice in its design and, after establishment, good practice in its execution. CRCs must demonstrate why their proposed governance arrangements are the most suitable to deliver the proposed results.’

To assist in developing a sound governance model, the Australian Stock Exchange Corporate Governance Council has identified eight good governance principles which have been adapted to the needs of the CRC Program. These principles are set out in the CRC Program Guidelines. Within the framework of these requirements, the details of governance structures and management processes can be varied to meet the needs of individual CRCs.

There are three major avenues of accountability for a CRC:

- to the Australian Government under the Commonwealth Agreement
- to the participants in the CRC through the Participants Agreement, and
- to the Australian Securities and Investments Commission (ASIC) under corporations law – if the CRC is incorporated (for more information go to www.asic.gov.au)

COMMONWEALTH AGREEMENT

The Commonwealth Agreement includes standard terms and conditions for all CRCs, and schedules which address each CRC’s specific activities and funding. A copy of the Commonwealth Agreement can be found on the CRC Program website www.crc.gov.au.

The CRC Program Guidelines require that ‘all CRCs must appoint a single party, acceptable to the Australian Government, that has the authority to negotiate and enter into the Commonwealth Agreement on behalf of the CRC’.

Essential Participants and their contributions are included in the Commonwealth Agreement, while Other Participants and their contributions are listed only in aggregate. This avoids the necessity for a contract amendment, should an Other Participant wish to alter their commitment or leave the CRC altogether, as long as the CRC can manage the impact on overall resources.

PARTICIPANTS AGREEMENT

The Commonwealth requires assurance that all participants will honour their commitments as promised during the application process and so all participants (Essential and Other) must sign the Participants Agreement.

The Participants Agreement covers such matters as:

- the establishment of the CRC entity to govern and manage the CRC
- payment of participant contributions
- ownership of intellectual property (IP)
- utilisation of research results including licensing arrangements
- appointments of key staff
- any other matters relevant to an equitable sharing of the costs and benefits of the CRC's work among participants

The actual form of the Participants Agreement is up to the participants to decide, as long as it meets the minimum requirements set out in the CRC Program Guidelines and the Commonwealth Agreement (Schedule 6 – Participants Agreement Terms and Conditions). Participants are at liberty to develop their own Participants Agreement, or use (or amend) the relevant Participants Agreement template, developed for the Department for use in the 11th and subsequent CRC selection rounds. These templates are available on both the CRC Program website and the Australian Institute for Commercialisation website (see References).

The participants may decide to distinguish and define different roles, responsibilities and obligations for Essential and Other Participants within their Participants Agreement, and any other terms and conditions they think are required. As such, the Participants Agreement can be as flexible as the participants wish to make it subject to the requirements of the Commonwealth Agreement.

It is important to note that in the case of any contradictory clauses between the Commonwealth Agreement, the Participants Agreement and any other Agreements (such as company incorporation or project agreements), the Commonwealth Agreement takes precedence.

If the CRC is incorporated, then an Incorporation Agreement will also be needed.



BENEFITS OF GOOD GOVERNANCE AND MANAGEMENT IN CRCs

FOR END-USERS

- CRC use of 'business-like' governance structures and management processes provides a familiar model for companies and other organisations
- well-functioning governance and management arrangements offer regular and relevant opportunities to assess progress towards the delivery of CRC research, education and utilisation outputs

FOR RESEARCHERS

- better understanding of the needs of end-users through close consultation via the governance and management arrangements
- opportunities to become involved in strategic planning of longer term directions for industry and other end-users
- greater levels of certainty about the research goals and the availability of resources for research



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SCOPE OF GOVERNANCE AND MANAGEMENT ISSUES FOR CONSIDERATION BY CRCs

INCORPORATED VERSUS UNINCORPORATED GOVERNANCE MODELS

CRCs should carefully consider the implications of using an incorporated or unincorporated governance model.

A series of templates has been prepared by the Australian Institute for Commercialisation to provide information on:

- legal structures
- operational models
- governance
- intellectual property

The CRC templates are available from the Institute of Commercialisation website and the CRC Program website (go to 'For CRCs'). See References.

The three main models developed for incorporated CRCs are:

- company limited by guarantee – seeking tax exemption (Ltd)
- company limited by shares (P/L)
- company limited by guarantee that is tax paying

The choice of company and management structure will have implications for taxation depending on whether participants are tax paying or tax exempt bodies. While many CRCs have sought to be structured as tax exempt research organisations, others have opted for a more commercial structure that is a tax paying entity.

In a joint project between the CRC Association and the Australian Institute for Commercialisation, information is provided on:

- tax paying entities
- tax exempt entities
- R&D tax concession
- intellectual property (IP) ownership

Further information about taxation issues affecting CRCs is also available from the CRC Program website, including in the draft Commonwealth Agreement.

GOVERNANCE ARRANGEMENTS

The Board is responsible for the strategic direction of the CRC. The Commonwealth Agreement requires the Chairperson to be independent of all participants and the majority of board members to be independent of the CRC's research participants.

Decision making activities requiring the Board's involvement will include:

- delivery of Commonwealth Agreement milestones, outputs and impacts
- project governance including starting, monitoring and stopping projects
- budget – monitoring both the CRC as a whole and each of the research programs individually
- risk assessment and management – including assessment of commercial, technical and other risks and oversight of risk mitigation strategies

To assist the Board and the Chief Executive Officer (CEO) in running the CRC, committees are usually formed. These may include risk and audit, remuneration, research and IP/utilisation committees.

Regular high level engagement with participants underpins effective collaboration in a CRC. Many CRCs involve major participants at board level (a representative model). However, where the CRC opts for a small board or a skills-based board, participants would not normally participate in the board structure. In this situation, CRCs have used a grouping such as a participants council to inform and engage with all participants. This entity can also function as a top level governance arrangement for appointment of the board. The council may meet once a year.

MANAGEMENT ARRANGEMENTS

CRCs generally require the following management positions to be established, but some of these responsibilities can be fulfilled using various combinations of roles:

THE CEO – has overall management responsibility for the CRC and works with the board to drive strategic direction and performance. This role entails understanding the business environment of the CRC's industry. The CEO is also responsible for delivering CRC outputs within financial constraints, ensuring sufficient resources and the capacity to deliver, and catering effectively for the diverse range of end-user needs.

RESEARCH PROGRAM LEADERS – ensure that the research program effectively and efficiently produces outputs in accordance with the CRC's strategic directions to generate its planned usage and impacts. Working with project managers, they contribute to the management and delivery of the planned milestones for the CRC. They are often included in the management committee structure and assist in identifying future pathways for achieving the strategic priorities of the CRC.

BUSINESS MANAGER – contributes significantly to the effective, efficient operation of the CRC by overseeing corporate services, commonly involving financial management, information technology and human resources. The Business Manager may also perform the role of Chief Financial Officer and Board Secretary. In some CRCs this role has also encompassed the utilisation/commercialisation responsibilities.

Prior to 2009, CRCs frequently appointed managers responsible for one or more of education and training, communications and/or commercialisation. This structure aligned with the previous requirements of the Commonwealth Agreement which set out three separate programs: research, education and training, and commercialisation. With a more integrated approach, where education and training activities, small to medium enterprise engagement strategies and utilisation activities are integral to each of the research programs, there is an opportunity for CRCs to rethink the roles and responsibilities of key staff.



ACCOUNTABILITY AND REPORTING

The Commonwealth Agreement, CRC Program Guidelines and other administrative guidelines issued by the Department set out accountability and reporting requirements for CRCs including in relation to annual reports, quarterly reports, reviews and evaluations.

Participants and stakeholders also require information on the performance of a CRC, particularly where they contribute substantial resources. Annual reports will form the basis of this reporting and it is normal practice for the annual report to be presented at an annual meeting. However, depending on the level of engagement of participants, they may also require more frequent reporting tailored to their particular interest areas, as well as participation in management processes for monitoring progress.

A CRC may also wish to provide regular information to a wider group in the community including early adopter groups for new technology or knowledge, particular interest groups or the whole community. The CRC Association provides a range of information to government and the community, drawing on input from CRCs. The CRC Association has also commissioned studies of the contribution of CRCs, such as the *Economic Impact Study of the CRC Programme*, October 2006.

POINTERS FOR NEW APPLICANTS

- address key governance and management issues in the early stages of planning a CRC collaboration
- ensure proposed governance and management arrangements comply with the current CRC Program Guidelines, draft Commonwealth Agreement and other guidelines issued by the Department
- consider who should be on your board as early as possible in the application process
- consider having newly elected board members attend Australian Institute of Company Directors' courses (or equivalent)
- recognise there is a multiplicity of approaches in developing the corporate structure of the CRC and that there isn't "one correct" approach or formula – just because one approach is in use for one CRC does not mean it will work for you

FURTHER ASSISTANCE

CRC Association

02 6270 6524

www.crca.asn.au

CRC Program

02 6213 7177

www.crc.gov.au



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www.capitalconsulting.com.au

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REFERENCES AND RESOURCES

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