



A Guide to Governance of a CRC

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Outline

1. Structure influences
2. Legal and IP structures
3. Governance



Structure influences

1. Commonwealth requirements
2. Tax
3. Anticipated research outcomes
4. Participant composition
5. Exit strategy



Commonwealth requirements



- All CRCs must appoint a single party that has the authority to negotiate and enter into the Commonwealth Agreement on behalf of the CRC.
- Must have an account held in the name of the CRC
- Commonwealth Funds and Contributions must be deposited into the CRC Account
- CRC Program Guidelines



Tax

- Will the CRC seek tax exemption?
- Requirements for ACNC registration
- Participants' ability to claim R & D tax credits
- Consider capital gains and stamp duty on IP and asset transfers



Anticipated research outcomes

- Type of IP
 - High risk
 - High returns
 - Public good
- Avenues of distribution
 - Through participants
 - Release to public domain
- Managing risk
- Minimising tax



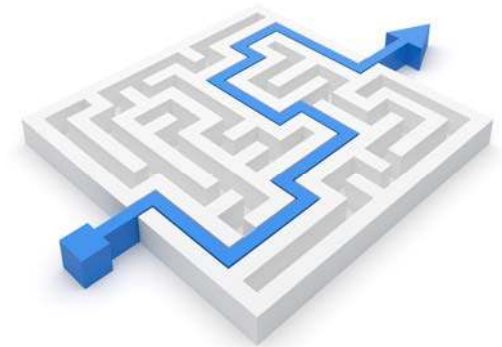
Participant composition

- Participant mix
 - Research
 - End Users
- Restrictions on certain participants
 - Government
 - Universities
 - International participants
- Small to medium enterprises
- Return on investment expectations



Exit strategy

- Ongoing centre
 - Continuing structure can reduce cost and tax
- Wind up and spin out IP
- Wind up and distribute amongst participants
- Wind up with IP in public domain.

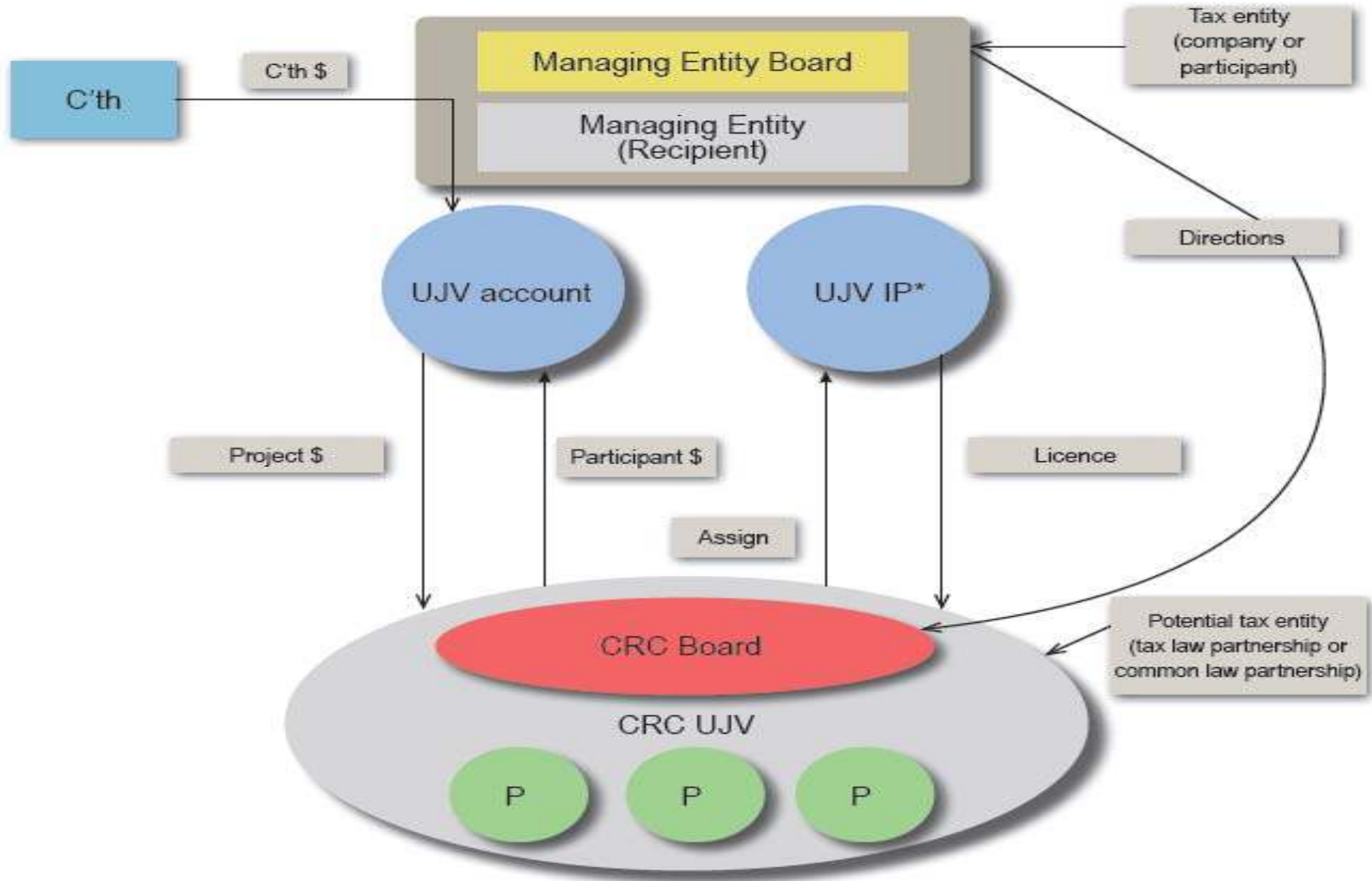


Legal structures

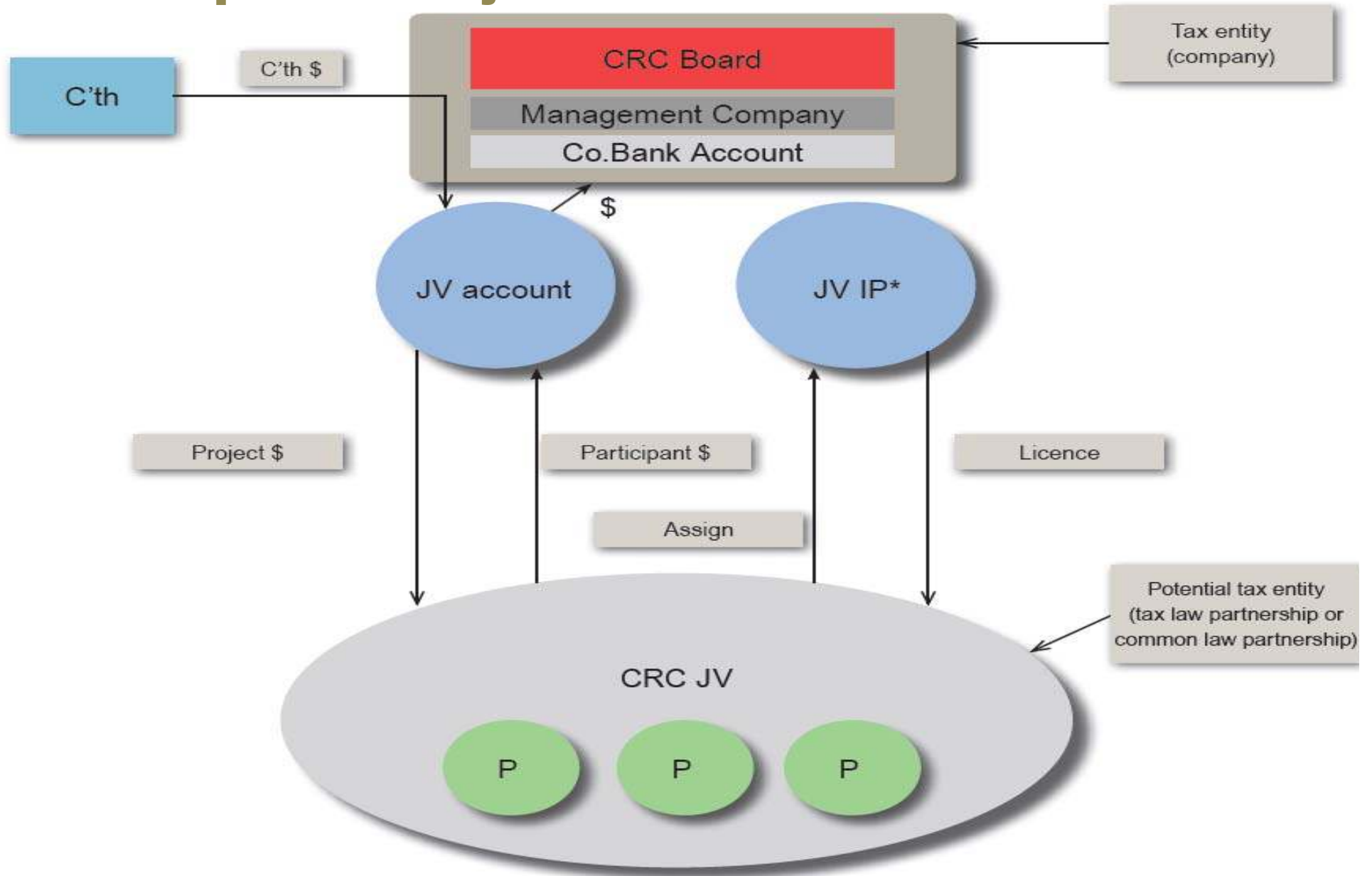
- Unincorporated joint venture with managing entity
- Incorporated joint venture
- Incorporated CRC



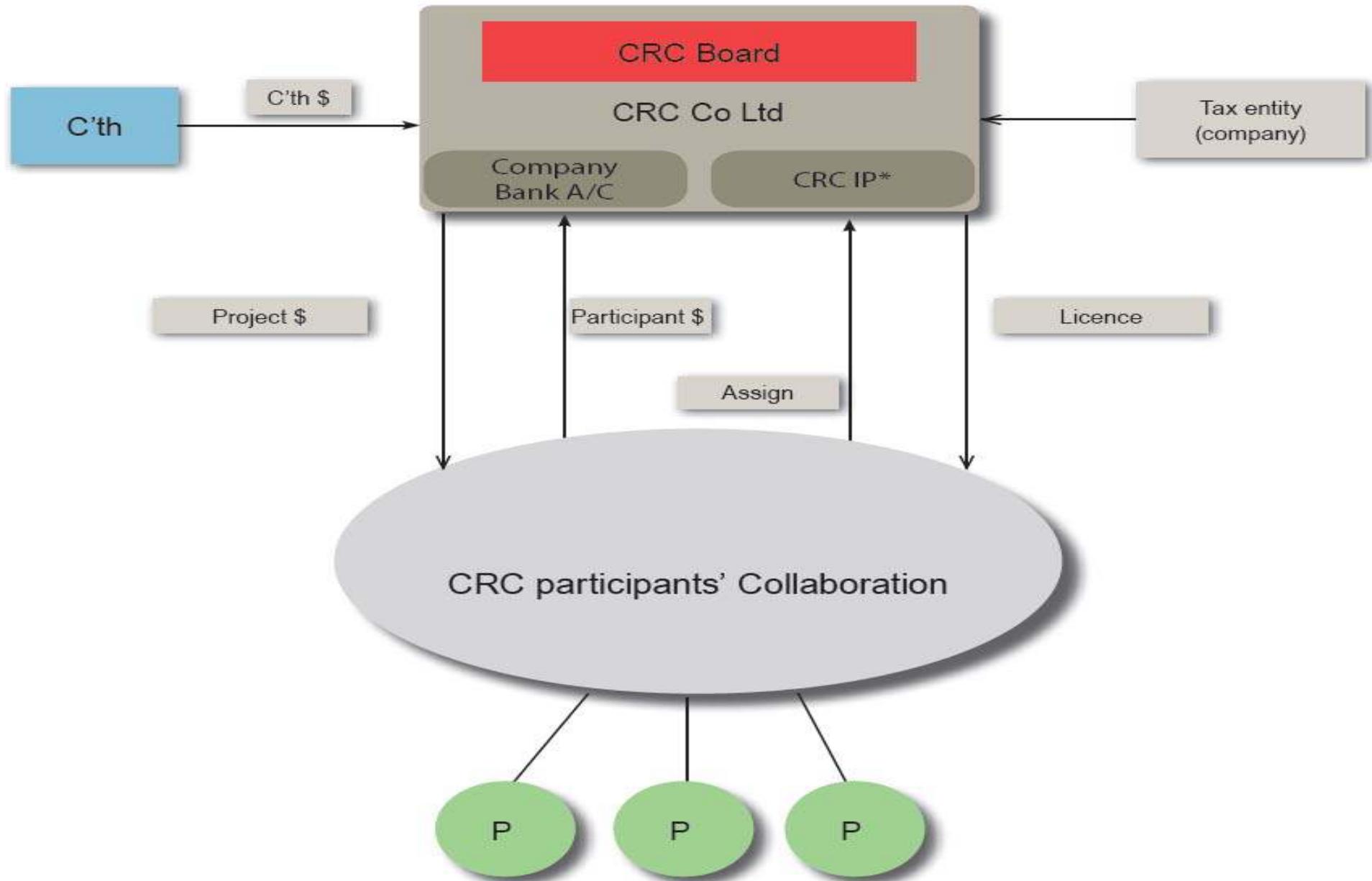
UJV with managing entity



Incorporated joint venture



Incorporated CRC



Governance



- Governance framework built on legal structure
- Commonwealth requirements
- Director / fiduciary duties
- The Principles for CRC governance – ASX Corporate Governance Principles
- ACNC governance guidelines



Commonwealth agreement



- CRC Board (clause 5.4)
 - Independent chair
 - Majority independent from Research Participants
 - Chair and CEO not the same person
 - Fit and proper persons



Commonwealth agreement (cont)



- At all times the Recipient must ensure that the CRC Board operates the CRC to the same fiduciary and good governance standards that apply to incorporated bodies under Australian law (clause 5.1).
- Consistency between establishment documents and Commonwealth Agreement (clause 5.3).



Director / fiduciary duties



- Board (whether UJV or incorporated JV or Incorporated CRC subject to director or fiduciary duties)
- Director duties – Corporations Act
- UJV Board – Fiduciary duties
 - No conflict
 - No profit
 - Not to act for own benefit or benefit of third parties

Governance principles



1. Lay solid foundations for management and oversight
2. Structure the CRC Board to add value
3. Promote ethical and responsible decision making
4. Safeguard integrity and financial reporting



Governance principles (cont)



1. Make timely and balanced disclosure
2. Respect the rights of shareholders/participants
3. Recognise and manage risk
4. Remunerate fairly and responsibly



CRC Board

- Skills
- Independence
- Size
- Selection and appointment
- Term of office



Participant engagement

- General meetings
- Reporting
- Committees
- Reserved decisions



ACNC governance standards



1. Purposes and NFP character of a charity
2. Accountability to members
3. Compliance with Australian laws
4. Suitability of responsible persons



ACNC governance standards (cont)



5. Duties of responsible persons

- Act with reasonable care and diligence
- Ensure that financial affairs are managed responsibly
- Act honestly in the best interests of the charity and for its purpose
- Not misuse their position or information
- Disclose any actual or perceived conflict of interest
- Not allow a charity to operate while insolvent



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