



# COUNCIL CHARTER

30 September 2015

<b>Policy Reference Number</b>	Council 000
<b>Classification</b>	Internal
<b>Version</b>	01
<b>Submitted By</b>	Company Secretary
<b>Approved By</b>	President
<b>Date Approved</b>	
<b>Review Date</b>	October 2017
<b>Document Type</b>	Intranet – Council Handbook
<b>Managed By</b>	Company Secretary

## Council Charter

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Constitution  
Section

### Section 1. Defining Governance Roles

#### 1.1 Council composition

| S 26.1 & 31

- a. Up to a maximum of 10 Councillors in total comprising: up to eight (8) representatives of Members, and up to two (2) non-Members.
- b. All Councillors must be elected by preferential ballot by Members.

#### 1.2 Key roles and responsibilities of the Council

| S 26.1 & 32

- a. Governing body of the Institute.
- b. Ensure the promotion and undertaking of the objects of the Institute.
- c. Exercise the powers of the Council.
- d. Monitor the Institute's performance and the implementation of Council approved strategy and policy.
- e. Monitor compliance with control and accountability systems; regulatory requirements; risk management frameworks; and ethical standards.
- f. Ensure preparation of accurate financial reports and statements with the guidance of the Audit Committee if established.
- g. Report to Members on the performance and state of the Institute.
- h. Review and approve executive remuneration and the remuneration framework with the guidance of the Remuneration and Nomination Committee if established.
- i. Selection; appointment; evaluation of the performance; and planning the succession, of the Chief Executive Officer (CEO) from time to time.

#### 1.3 Role of individual Councillors

| S 27

- a. Act with independence and in the best interests of Members with effective decision making.
- b. Use best endeavours to attend meetings.
- c. Ensure the role of the Council is carried out effectively by discharging their duties as a Councillor.

#### 1.4 Role of the President and Chairman

- a. President will be elected by a majority vote of Councillors.
- b. President will be nominal Head of the Institute and shall preside as Chairman at all General Meetings and meetings of the Council.

### **1.5 Role of the Deputy President**

- a. Whenever the President is prevented from fulfilling the duties of office, the Deputy President shall act for the President.

### **1.6 Role of the Company Secretary**

| S 32.2(h)

- a. Supports the effectiveness of the Council by monitoring and ensuring Council policy and procedures are followed and co-ordinating the completion and dispatch of Council agendas and any briefing papers.
- b. Company Secretary is responsible through the Chairman on all governance matters.

### **1.7 Role of the CEO and management**

| S 32.2(h)

- a. The management function of the Institute is conducted by, or under the supervision of, the CEO as directed by the Council (and by other officers to whom management function is properly delegated by the CEO). Ultimate responsibility for strategy and oversight of management, of the Institute, rests with the Councillors.
- b. CEO formulates and recommends business and financial strategies and plans to develop and achieve the Institute's objects.
- c. CEO promotes the interests of the Institute.
- d. CEO must supply the Council with information in a form, timeframe and quality that will enable the Council to discharge their duties effectively. Councillors are entitled to request additional information at any time when they consider it appropriate.

## **Section 2. Key Council Processes**

### **2.1 Council meetings**

| S33

- a. Council will meet no less than three (3) meetings in a calendar year.
- b. Council meetings will be held in accordance with the Constitution.
- c. Councillors may meet as frequently as required without management for private discussions on Institute or management issues

### **2.2 Council meeting agenda**

| S 31.1

- a. Council meeting agenda will be set by the Chairman and prepared by the Company Secretary.

### **2.3 Council papers**

- a. Council papers will be prepared by the Company Secretary.
- b. Council papers will be circulated by the Company Secretary prior to the Council Meeting, within 7 days prior to the meeting.

## **2.4 Council meeting minutes**

- a. Minutes of the Council meeting will be taken by the Company Secretary.
- b. Draft minutes of meeting will be reviewed by the Chairman before being circulated to all Councillors for comment.
- c. Minutes shall be approved by the Council within 1 month of the Council meeting to be prima facie evidence of that meeting.

## **2.5 Committees**

| S 32.2(e)

- a. Council may from time to time establish committees as it considers necessary or appropriate to assist it in carrying out its responsibilities.
- b. Council shall, at a minimum, establish the following committees and shall adopt charters setting out matters relevant to the authority, responsibilities, Membership and operation of those committees:
  - i. Audit and Risk Management Committee;
  - ii. Remuneration and Nomination Committee; and
  - iii. Qualification and Certification Board.
- c. More specifically, Council delegates power to the Qualification and Certification Board (ANB & ANBCC) for education, qualification, testing and certification in the welding industry consistent with the Constitution, strategy and all Institute policies.
- d. Council may also delegate specific functions to committees on an “as needs” basis. The powers delegated to those committees will be described in Council resolutions.

## **Section 3. Council Effectiveness**

### **3.1 Councillor protection**

| S 40

- a. The Constitution indemnifies each Councillor, CEO and officer of the Institute to the fullest extent permitted by the law.
- b. Each Councillor is entitled to a Director Protection Deed.

### **3.2 Councillor remuneration**

- a. Councillors will not receive any remuneration for acting as a Councillor.
- b. Expenses incurred or to be incurred the capacity of a Councillor will be reimbursed in line with Institute policies.

### **3.3 Councillor selection**

| S 33.1(a)

- a. The Institute’s Constitution governs the election and re-election of Councillors.
- b. Upon election, a Councillor will be provided with formal letters setting out the key terms and conditions of that appointment.

### **3.4 Councillor induction and development**

- a. Upon the Councillor's election pursuant to the Constitution, the Councillor will undertake an induction program that will include at a minimum:
  - i. familiarisation - including site visits as appropriate and meetings with key personnel to come up to speed on key issues; and
  - ii. training - at a minimum, the President; Deputy President; CEO; and Company Secretary must have either undertaken or intend to undertake, within 12 months of their appointment, the Australian Institute of Company Directors - Directors Course, at the expense of the Institute.
- b. All directors must exercise due diligence by acquiring, and keeping up to date, knowledge of work health and safety matters as required under the Work Health and Safety Act 2011 (NSW) and summarised in the Schedule to this Charter.

## Council Charter Schedule

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### **Section 4. Workplace, Health and Safety legal obligations**

The Company has the primary duty of care under the Work, Health and Safety Act 2011 (WHS Act) to ensure, so far as is reasonably practicable, that worker and other people are not exposed to health and safety risks arising from the business.

#### **4.1 Company legal obligations**

More specifically, this primary duty of care includes:

- a. Talking to its workers to identify potential hazards
- b. Putting systems in place for the safe use and maintenance of plant and machinery, such as machine guards
- c. Providing suitable information, instruction and supervision, especially to new workers
- d. Ensuring there is adequate workplace facilities, including toilets, drinking water, washing and eating facilities and first aid
- e. Recording any workplace incidents in a register of injuries and respond to hazards quickly
- f. Preparing emergency plans
- g. Managing the risks of any remote and isolated work
- h. Having a return to work program to help injured workers with their recovery and return to work

#### **4.2 Officer (including company directors) legal obligations**

- a. In addition to the primary duty of care owed by the Company, the Act requires an officer (including company directors) to exercise due diligence to ensure that the business complies with its work health and safety obligations under the Act and Regulations.

*Due diligence for the purposes of the Act means:*

- i. Acquire and keep up to date knowledge of work health and safety matters
- ii. Understand the operations of the business and the hazards and risks involved
- iii. Ensure appropriate resources and processes are provided to enable hazards to be identified and risks to be eliminated or minimised
- iv. Ensure information regarding incidents, hazards and risks is received and the information is responded to in a timely way

- v. Ensure the business has, and implements, processes for complying with any legal duty or obligation
  - vi. Verify the provision and use of resources and processes
- b. The positive obligation placed on officers emphasises corporate compliance through sound corporate governance and encourages safety leadership.
- c. If officers breach the above obligations, the extent of personal liability depends on the degree of culpability and risk or degree of harm. Category 1 penalties are the highest and involve death or serious injury with an element of recklessness as to whether the incident could happen. Penalties include fines up to \$600,000 and/or 5 years imprisonment. Category 2 and 3 penalties carry fines up to \$300,000 and \$100,000 respectively.

### 4.3 Workplace Bullying

- a. It is important to note that health and safety of workers and other people is not just their physical health and safety but also their psychological health and safety. Workplace bullying can be harmful to the person experiencing it and to those who witness it.
- b. Given officers are legally obligated under the Act to exercise due diligence to ensure the business complies with the Act and Regulations, this includes taking reasonable steps to ensure the business has and uses appropriate resources and processes to eliminate or minimise risks associated with workplace bullying.
- c. In addition to the WHS applying to workplace bullying, effective 1 January 2014, new anti-bullying legislation commenced operation. This legislation provides a right to a worker, if they believe they are being bullied at work, to apply to the Fair Work Commission (FWC) for an order to stop bullying. A worker is bullied if an individual or a group of individuals repeatedly behave unreasonably toward a worker, and the behaviour creates a risk to health and safety. The definition of "bullying" is expressly stated not to apply to reasonable management action carried out in a reasonable manner.
- d. When the FWC receives an application for an order to stop bullying, it must be dealt with within 14 days. In considering whether an order should be made, the FWC must take into account any matters the FWC considers relevant, including the:
  - i. outcomes of any investigation into the matter at a workplace level, whether undertaken by the workplace, or another person;
  - ii. procedures available to the worker to resolve grievances or disputes; and
  - iii. outcomes arising out of any procedure available to the worker to resolve grievances or disputes