



<b>Council Report on WTIA Constitutional Changes</b>		<b>Document No:</b> TBA
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An Extraordinary General Meeting was convened in Lidcombe, Sydney on 26 March 2009 to receive, consider and approve the amended WTIA Constitution.

Our Constitution was last amended in 2005 and has been changed twice since it was first drafted in 1989 at the merger of the Australian Welding Institute (AWI) and the Australian Welding Research Association (AWRA). Changing an organisation’s constitution is not an unusual event, but is an important event, nonetheless.

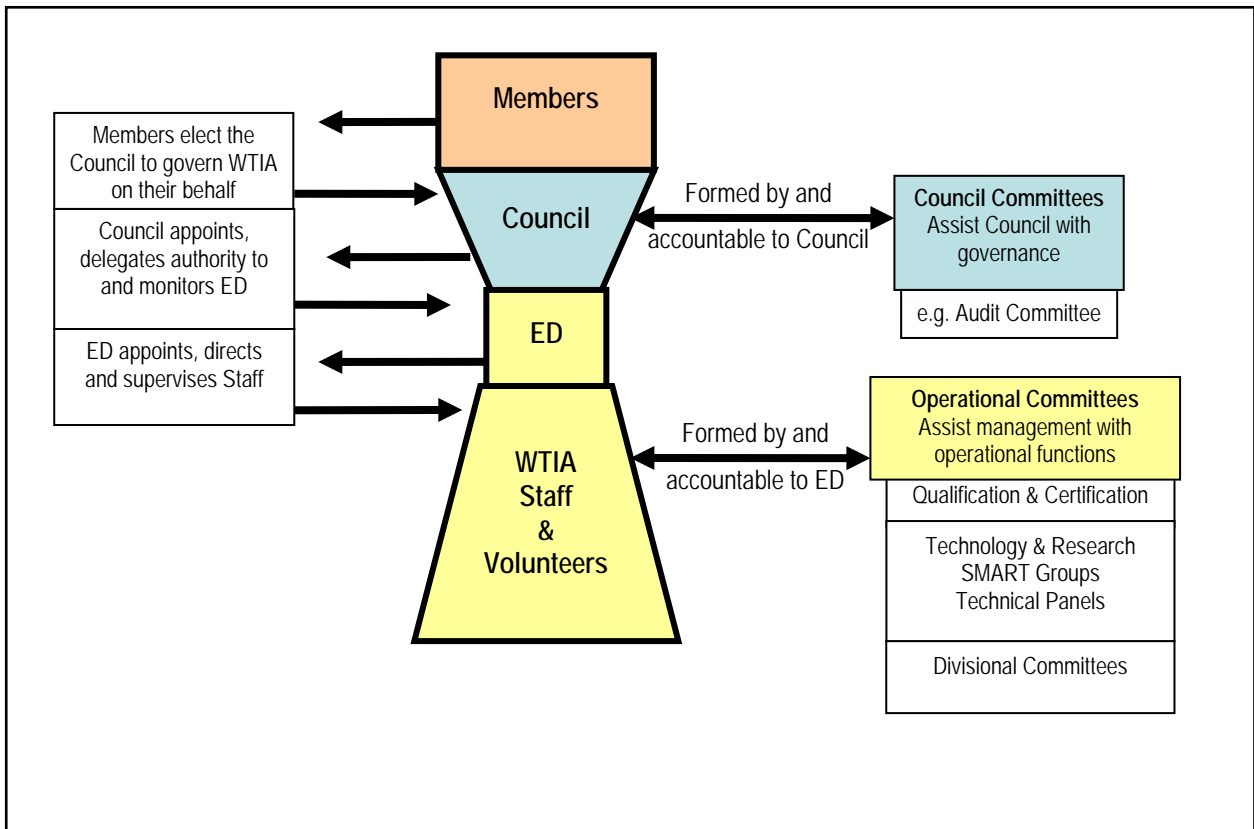
The Constitution is best understood as a “contract” between the Members of the WTIA and the Council of the WTIA. It sets the parameters and boundaries for how the WTIA is to be *governed*. It is not, nor should it ever be construed as, a set of management or operational rules or, worse still, constraints for the Institute. Organisational *operational* rules should be the responsibility of the Council who usually delegate these powers and authorities to the Executive Director and management.

Changes to an organisation’s constitution become necessary from time to time to:

- Accommodate the needs and aspirations of Members of all classes
- Comply with changes to the legal framework within which the organisation exists
- Clear up ambiguities, inconsistencies and procedural matters in the Constitution
- Adapt to changing needs and circumstances of the organisation
- Remove unnecessary constraints on effective governance
- Clearly identify governing body accountabilities and their powers and responsibilities and ensure operational functions can be easily delegated
- Changes to roles and responsibilities
- Financial liabilities

The March 2009 Extraordinary General Meeting was to consider changes to the Institute’s Constitution that had been recommended by a governance consultant who has been working with the Council for almost a year. The consultancy began in May last year with a workshop for Council to make members of Council aware of their legal responsibilities as the governing body of the Institute and ensure they understood that Councillors stand accountable as a group for decisions made on any matters of policy development, including proposed strategic opportunities.

At the Council meeting that followed the workshop, a simple organisational model was adopted.



This diagram can be expanded as shown in Appendix 1.

The Council also agreed that it needed to be a smaller group, selected on the basis of the skills individuals could bring to the table, in place of the current “representative” nature of the Institute’s Council which was considered to be an unsuitable model in the current economic and legal environment. Representative structures tend to encourage fragmentation, place undue expectations on individual Council members and convey the (false) impression that a Councillor can safeguard a sectional interest.

It was also agreed that it is particularly risky for Councillors to be able to nominate ‘alternate directors’ as this places an unsustainable personal liability on the nominated alternate who is not ‘up to speed’ on the issues before Council.

It was therefore agreed that under a revised Constitution the ‘business units’ of the Institute, such as the Q&C Board, the SMART Groups and Divisions etc. would be regarded as *operational* units (i.e. they help develop and deliver business services of the Institute and don’t have any ‘governance’ accountabilities of the Institute). There was no question as to the abolition of these units, all of which are recognised as vital to the nature and operation of the Institute, but that their “right” to a ‘representative’ seat on Council would discontinue.

Between May and November 2008, the task of amending the current Constitution took shape. Drafts, all with changes carefully recorded and explanatory comments inserted, were circulated to Councillors over the period November 2008 to February 2009. During this period Councillors were invited to make further suggestions for the changes, ask questions and point out inconsistencies. Many contributed. In the end, Council was provided with a final draft and a marked up version for a telephone conference on 23 February 2009. This final version of the draft new Constitution

received unanimous support from Council, prior to its circulation to Members for consideration and approval in accordance with the current Constitution.

Once they had received notification of the Extraordinary General Meeting, Members were able to review a document that was considerably simpler than its predecessor. Some of the key ingredients in the 1989 Constitution that reflected the perceived needs and common practices of the 1980s were no longer included, as they had been agreed by Council to be outdated and contrary to modern governance principles.

The draft new Constitution could be read as a simple framework for the governance of the Institute into the future. It provides for:

- The name, objective and the powers of the Institute
- Dealing with income, expenditure, property and winding up of the Institute
- Membership classes, the register of Members, their removal, resignation and fees
- Members' meetings, notification, proxies and voting procedures
- The Council, its election, powers and proceedings
- The President, his or her election and duties
- Record keeping, accounts, audit, finance and indemnity
- Objections to research

The shortcomings of the current arrangements that provide for 'Representative' Councillors and Alternate Councillors have already been mentioned. This was agreed, in May 2009, to be the key dysfunctional ingredient of the Council and the generator of perceptions that Councillors might have the right to interfere in operational matters without going through the Executive Director. Such behaviour has impaired the effectiveness of the Institute to respond to market opportunities and seriously affected staff morale.

Divisions are agreed to be *operational* units of the Institute, as are the Q&C Board, the Technology and Research Board etc. Under the draft Constitution the Divisional Board, Research Board and Q & C Board Rules and operational environment becomes the responsibility of Council and will be expressed in the form of Council Policies to be carried out under the umbrella of the management team.

The draft Constitution has left out provisions that Council has agreed are counter to effective governance principles. The omissions include:

1. Reference to an Honorary Treasurer
2. Reference to the Executive Committee
3. Reference to Divisions, Technology & Research (T&R) Board and Qualification & Certification (Q & C) Board
4. Representative Councillors and Alternate Councillors
5. Reference to appointees onto Council from Sustaining Members, Divisional Committees, Q&C Board, T&R Board, the Commonwealth Government, Cooperative Research Centres (CRC) and CSIRO.

The Honorary Treasurer is an outdated concept that seems to lay at one person's feet the fiduciary responsibility that the whole Council owns under the Law.

The Executive Committee, which is constituted as an “inner circle” of Councillors, has been removed for much the same reason; it is not in the interests of Councillors as a whole to “allow” an inner circle to wield executive powers on their behalf since all, in the end, carry the can.

Other minor changes in the draft new Constitution include:

- The National Office replaces the Federal Office
- The classes of Membership are simplified to Individual Members and Corporate Members
- Corporate Members are given more equitable influence in General Meetings.

It is time for change.

Nevertheless, the Extraordinary General Meeting on the 26<sup>th</sup> March was adjourned by the President after three hours of circular arguments, various comments and points of order. It was apparent to all present that the changes being proposed required more detailed explanation regarding their significance for improved governance of their Institute.

After reassuring the EGM that the Divisions and their Committees would continue to function, the main concerns revolved around a perception that the Divisions could lose the powers they consider derive from the representative nature of Council. These perceptions seemed to originate from a misunderstanding that Councillors can represent their stakeholder group in the considerations Council has to grapple with. The exercise of such an influence however, is completely contrary to governance principles contained in the Corporations Act (s181 is very clear that Councillors accountability is to the ownership as a *whole*) and also places such Councillors in a seriously conflicted situation.

Two other key concerns were raised in discussion at the March EGM:

- The possibility of Councillor remuneration – Clause 5.3
- A complex formula to allow Corporate Members greater voting power than individuals at General Meetings – Clause 24.2

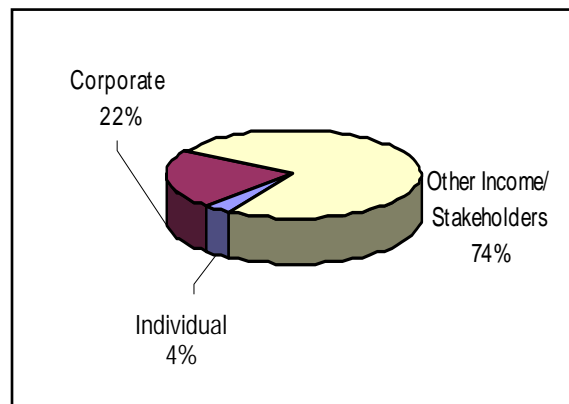
Until there is a vote by a General Meeting (Clause 5.3) to the contrary, Councillors will continue to serve in a voluntary capacity. Your present Council accepts this.

Providing Corporate Members with a greater influence in electing Councillors is much more important to the sustainability of the Institute. The following table summarises the rules that apply to various classes of Corporate Member and shows how Clause 24.2 would be interpreted into voting rights under the draft Constitution.

Type of Member	Annual Fee	Number of Employees	Fee ratio to Individual Member	Voting rights under Clause 24.2
Individual Member	\$150	Individual (in industry or retired)	1	1
Small corporate	\$800	Company with up to 50 employees in one State	5.33	5
Large Corporate	\$1,050	Company with over 50 employees in one State	7.0	7
Sustaining Member	\$2,850	Company in more than one State with more than 50 employees	19.0	19

The maximum of twenty votes for a sustaining member provides a cap on voting rights even if the fee ratio increases in the future.

The current contribution of Members to revenue can be seen in the following pie chart.



The Institute's income streams illustrate the importance of the proposed changes. The pie-chart highlights why the Corporate Members should be given a more equitable say at General Meetings in how the Institute pursues its objectives and exercises its powers. It also shows the importance of having effective, unimpaired management processes which generate the greatest part of revenue through income earning activities.

The adjournment of the Extraordinary General Meeting will provide further opportunity to properly consult with and inform Members of the proposed constitutional changes and allow possibly further tidying up of the draft new Constitution. It is crucial that all Members inform themselves of the proposed changes so they can arrive at a view that is in the best interests of the future sustainability and growth of their Institute.

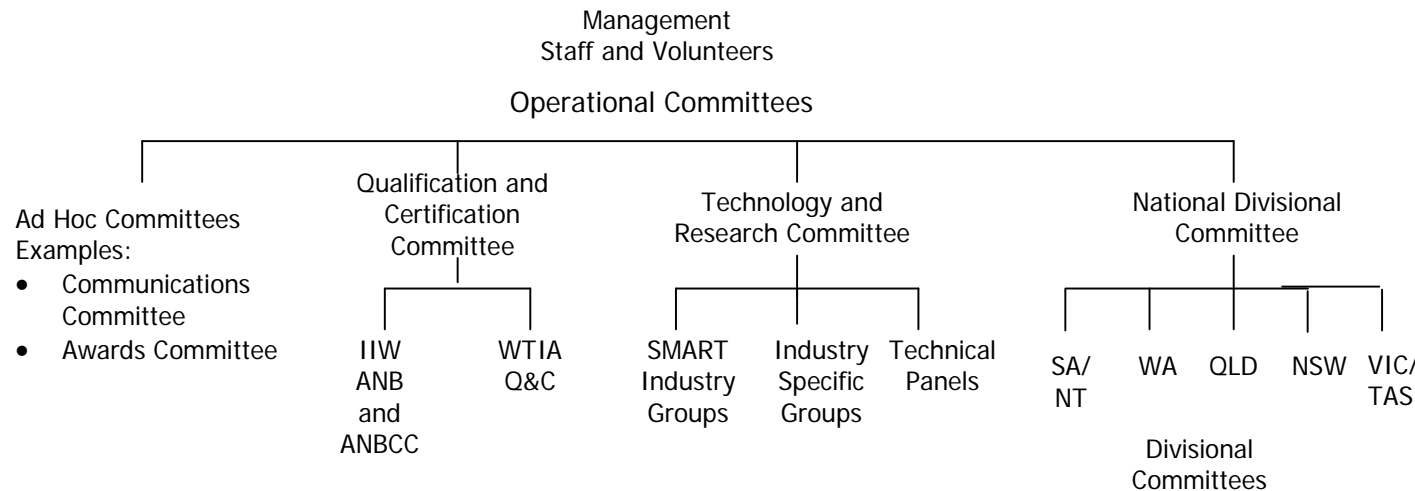
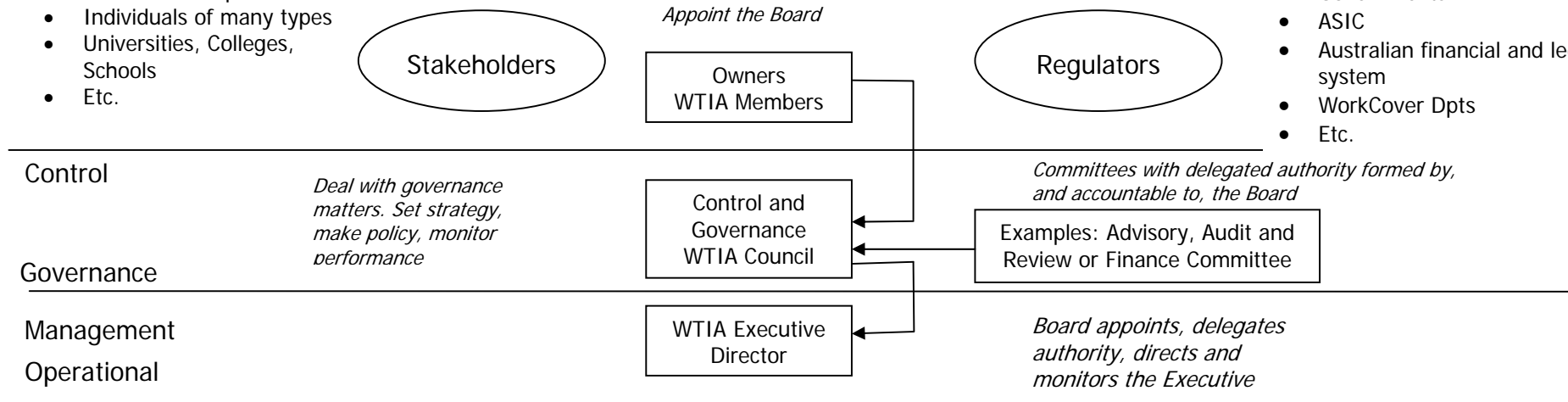
The alternative is to risk the disintegration of the Institute and its eventual merger with some other body that has already taken the necessary steps to modernise its governance structure.

# EXAMPLE WTIA GOVERNANCE STRUCTURE

# Appendix 1

- General Public
- Industrial Companies
- Individuals of many types
- Universities, Colleges, Schools
- Etc.

- Australian and State Governments
- ASIC
- Australian financial and legal system
- WorkCover Dpts
- Etc.



### NOTES

- WTIA Council could consist of a President plus nine (9) other Directors;
- Each Operational Committee could have a Chairman. Each formed by, and accountable to, the Executive Director to assist him to design and implement operational strategies and plan to resolve and act within the framework of internal control policies set by the Board;
- The Committees could assist management and staff with operational functions such as marketing services, finance, information management, administration, human resource management;
- Chairmen may be invited to report to the Board but via the Executive Director; and,
- The present Honorary Treasurer position would be eliminated. The Board of Directors could choose a Director with appropriate experience to be, for example, Chairman of a Board of Directors Finance Committee.