

NSWBC COUNCIL BY-LAWS

As at 18 February 2016

NSWBC Board and Council

1. If the President retires from the Board prior to the expiry of the term of office, the president appointed in accordance with the Constitution of the NSWBC (**Constitution**) to fill the vacancy (**Acting President**) will serve on the Board for the remainder of the term. The remainder of the term served by the Acting President will not be counted in determining the relevant term of office if the Acting President is then appointed as the President by the Council in accordance with the Constitution.
2. Nominations for Member Elected Councillors are to be submitted to the Council, in a format designated by the Council, no less than thirty (30) days before the Annual General Meeting (**AGM**) of the NSWBC.
3. Nominations for Office Bearers and Board Members are to be submitted to the Council, in a format designated by the Council, no less than thirty (30) days before the Council meeting referred to in clause 118 of the Constitution.
4. All nominees will be provided with access to the contact details of existing Councillors.
5. Prior to selecting nominees, the Council should consider the skills of existing Councillors. Councillors should be nominated with a view to filling any skills and/or business sector gaps on the Council, and to ensure a balanced representation of capabilities and experience across the industries and market sectors of NSWBC membership. The management of the NSWBC shall provide a matrix setting out the skills of all existing Councillors and nominees to the Council.
6. In the event of a casual vacancy on the Council, other than a casual vacancy of the position of a Regional Nominated Councillor, the procedure for the nomination of any person to fill that casual vacancy requires that all nominations:
 - (a) be on a form approved by the Council;
 - (b) have as an attachment, the nominees current CV, in a format designated by the Council;
 - (c) be signed by two members of the Company who are entitled to vote; and
 - (d) be provided to the Company no later than seven (7) days before meetings of the Council that will vote on the nominations.
7. Any and all nominees to fill a casual vacancy on Council shall be asked to leave the meeting when voting to fill a casual vacancy occurs.
8. For the filling of one or more casual vacancies, other than a casual vacancy of the position of a Regional Nominated Councillor, where there are more nominees than positions available on the Council, the process is as follows:
 - (a) Any nominees present shall be asked to leave the meeting.
 - (b) The Council shall initially vote in relation to each nominated candidate to ensure each nominated candidate receives a majority vote. Candidates who do not receive a majority vote of the Council will be disqualified. Candidates who receive a majority vote will proceed

to the next stage of the election process. For the purposes of the election process, and all other matters requiring the resolution of the Council, a majority shall be determined by reference to the total number of Member Elected Councillors and Regional Nominated Councillors present at the commencement of the Council meeting, that are eligible to vote in person or by proxy.

- (c) If the number of candidates who receive the majority vote of the Council is equal to or less than the number of candidates required to be elected, the Chairman of the meeting of the Council shall declare the candidates nominated duly elected.
- (d) If the number of candidates nominated who receive the majority vote of the Council is greater than the number of candidates required to be elected a separate ballot shall be conducted to elect each person.
- (e) The ballot papers shall contain the names of the candidates for each election in order determined by lot.
- (f) The Returning Officer shall count the votes in the following manner:
 - (i) the Returning Officer shall arrange the unrejected ballot papers under the names of the respective candidates by placing in a separate pile all those on which the preference is indicated for the same candidate;
 - (ii) the Returning Officer shall count the votes given for each candidate on all unrejected ballot papers;
 - (iii) the candidates who have received the largest number of votes shall be elected;
 - (iv) as between candidates who receive an equal number of votes, the vote shall be held again, and, if after the second vote the candidates receive an equal number of votes again, then the Returning Officer shall determine which candidate is elected by lot;
 - (v) the Returning Officer's decision of the validity of ballot papers shall be final; and
 - (vi) the Returning Officer shall convey the result of the ballot to the Chairman of the meeting of the Council who shall declare the result of the ballot.

9. Past Presidents shall be able to attend Council Meetings, without any voting entitlements, as they are custodians of the heritage and history of the NSWBC and have knowledge of past and present relationships with interstate chambers and employer associations around Australia.

Regional Presidents and Regions

10. For the purposes of clause 65 of the Constitution, if a Regional Council nominates someone other than the Regional President as the Regional Nominated Councillor for that region, and that nominated person is a Regional Councillor, then the Council will be deemed to have agreed to that nominated person being the Regionally Nominated Councillor for that region. If the Regional Council nominates someone that is not a Regional Councillor as the Regional Nominated Councillor for that region, then that nominated person must be approved by Council in accordance with clause 65 of the Constitution.
11. If a Regional President, Regional Nominated Councillor or Member Elected Councillor does not attend three (3) consecutive NSWBC Council Meetings without providing a satisfactory reason to the NSWBC Council, then the President may recommend to the NSWBC Council that the Member Elected Councillor retire as a NSWBC Councillor or, as the case may require, recommend to the

relevant Regional Council that the Regional President or Regional Nominated Councillor retire as a NSWBC Councillor and that the Council or the Regional Council call for nominations to fill the casual vacancy. Any person appointed to fill such casual vacancy must be elected or appointed in accordance with the NSWBC Constitution, the Regional Charter and these By-Laws.

12. Each Regional Council is responsible for nominating their representative that will become the Regional Nominated Councillor on the NSWBC Council.
13. The Office Bearers of the NSWBC cannot simultaneously be Office Bearers of a Regional Council.
14. The Office Bearers of a Regional Council cannot simultaneously be Board Members or Office Bearers of the NSWBC.
15. Upon a Regional Nominated Councillor ceasing to be a Regional Councillor his/her appointment as a Regional Nominated Councillor will terminate in accordance with the NSWBC Constitution, the Regional Charter and these By-Laws.
16. In the event of a casual vacancy on the NSWBC Council caused by the retirement, resignation or termination of a Regional Nominated Councillor, the relevant Regional Council will be asked to elect from their existing Regional Councillors a representative to fill the vacancy on the NSWBC Council.

NSWBC External Representation

17. To represent NSWBC on external Boards or Committees the representative must be a NSWBC Board Member, Councillor, member of the NSWBC or representative of a member of the NSWBC or selected staff member (with selected staff members to be recommended by the Chief Executive Officer and approved by the President and the Board) or an individual approved by the Council.
18. Positions of representation on external Boards or Committees (ACCI, Government or other industry groups and associations) on behalf of the NSWBC, the Council or membership, shall be reviewed, and approved or changed, by the President after the election of each new President (every two (2) years) or at any time during their term of office.

Electronic Voting

19. Where appropriate and where technology permits, electronic lodgement of votes may be used, at the Council's discretion, for the purposes of any voting by members of the Council that is contemplated under the Constitution or these By-Laws.

Termination

20. If a Councillor who is appointed or elected as a Member Elected Councillor or a Regional Nominated Councillor ceases to be a Partner, Director, Officer, Employee or a representative of a member, then the Member Elected Councillor or Regional Nominated Councillor will also cease to be a Member Elected Councillor or a Regional Nominated Councillor unless they are appointed as a representative of another member within 30 days of the date they cease to be a representative of the first member.
21. If a current Member Elected Councillor nominates at any general election of a Regional Council to act as a Regional Nominated Councillor, or to fill any vacancy of a Regional Nominated Councillor, that Member Elected Councillor will automatically retire from his or her position as a current Member Elected Councillor effective from the date of the nomination.

Prohibition of Political or Government Officers

22. Subject to By-Law 26, any person who seeks, stands for, is elected to or holds a Political Office in any local, state or federal jurisdiction is not eligible to be a Representative, Member, Associate Member, Board Member, Councillor, Member Elected Councillor, Officer, Office Bearer, Regional Councillor or Regional Nominated Councillor.
23. Any person who ceases to be eligible to hold any position pursuant to By-Law 22 above shall be deemed to have automatically resigned from that position and shall cease to hold that position provided nonetheless that the NSWBC may allow the relevant person to continue in that position for up to ninety (90) days on such terms as the NSWBC thinks fit.
24. Subject to By-Laws 25 and 26, any person who seeks, stands for, is elected to or holds a Government Office in any local, state or federal jurisdiction is prima facie eligible to be a Representative, Member, Associate Member, Board Member, Councillor, Member Elected Councillor, Officer, Office Bearer, Regional Councillor or Regional Nominated Councillor.
25. In the event that the Council receives a request from a Councillor to the effect that a person the subject of By-Law 24 should not be eligible to remain as a Representative, Member, Associate Member, Board Member, Councillor, Member Elected Councillor, Officer, Office Bearer, Regional Councillor or Regional Nominated Councillor (as applicable) as a result of their affiliation with a Government Office, the Council will determine, at the next scheduled Council meeting following the receipt of the Councillor request, (**Council Determination Period**), by simple majority, whether that person is eligible to remain as a Representative, Member, Associate Member, Board Member, Councillor, Member Elected Councillor, Officer, Office Bearer, Regional Councillor or Regional Nominated Councillor (as applicable). During the Council Determination Period the person will not be deemed to have automatically resigned and will continue in their position, but the person will be unable to vote at the Council meeting in respect of their continued eligibility.
26. The prohibitions in By-Law 22 and, in the case of the Council vote, By-Law 25, does not apply where the Board or Council has requested or required the person to seek, stand for, be elected to or hold a Political Office or Government Office in any local, state or federal jurisdiction. For the avoidance of doubt, any person who holds a Political Office or Government Office pursuant to this By-Law 26 is not a NSWBC external representative for the purposes of By-Laws 17 and 18.
27. For the purposes of these By-Laws:
- (a) **Government Office** means a subsidiary organ of government created for a special purpose and includes, but is not limited to, specialised government committees; and
- (b) **Political Office** means an office which is obtained by a public election or otherwise obtained by political selection and includes, but is not limited to, members of local, state or federal parliament and government ministries.