



ASX Corporate Governance Council

COMMUNIQUE

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Chair of Corporate Governance Council comments on the debate about the proposed fourth edition of the *Principles and Recommendations*

The ASX Corporate Governance Council (the 'Council') welcomes the high-level of interest in, and robust debate on, the proposals to update and issue a fourth edition of its Corporate Governance Principles and Recommendations (the '*Principles and Recommendations*').

It is important that the *Principles and Recommendations* are reviewed from time to time to ensure that they address emerging issues in corporate governance and continue to serve the interests of all participants in the market. That is the purpose of the Council consulting on the draft fourth edition.

Much of the current commentary about the *Principles and Recommendations* misses the point that the document being commented upon is a consultation draft, not a final or fixed position. It is appropriate and important that a consultation draft explore new ideas and test boundaries.

The full Council - all 20 members, comprising major business, investor, advisory and industry groups - unanimously approved the consultation draft for release as a consultation draft, even though some members may not have agreed with everything it contained. The draft was intended to generate debate and elicit a wide range of views.

It is wrong to label the consultation draft as the work of 'left-wing activists' or 'social engineers'. It is the work of those who invest in, raise capital from, and provide professional support for, the market.

Almost 100 written submissions have been received on the consultation draft, including from members of the Council. All non-confidential submissions will be published on the ASX website this week. The Council will carefully analyse and reflect on the submissions received before preparing the final version of the fourth edition of the *Principles and Recommendations*.

The materials in the consultation draft on 'social licence to operate' appear to be the major cause of concern with some stakeholders. As a number have already pointed out in submissions, this issue can be addressed in different terms such as reputation, brand and trust. The Council will listen carefully to the concerns that have been raised about the term 'social licence to operate' and consider how best to express and address this issue in the course of preparing the final version of the fourth edition.

The final form of the *Principles and Recommendations* will need to be approved by broad consensus of the members of the Council. This will require cooperation and compromise to reach a position broadly acceptable to the diverse stakeholder groups represented on the Council. Consequently, the final version of the fourth edition will almost certainly differ from the consultation draft.

This is the process the Council went through with the previous editions of the *Principles and Recommendations*. In each case, the Council has been successful in finding common ground and adopting a new edition that improved governance standards. As Chair, I am confident the Council will achieve the

same result with the fourth edition and issue that document, as scheduled, late this year or early next year.

Each new edition of the *Principles and Recommendations* has been widely regarded as contributing significantly to an uplift in governance standards in Australia. The suggestion some have made that the *Principles and Recommendations* have contributed to the egregious behaviour revealed by the Hayne Royal Commission is simply wrong. In fact, much of that behaviour violates principle 3 of the existing *Principles and Recommendations* – act ethically and responsibly.

Similarly, the suggestion some have made that the *Principles and Recommendations* have contributed to boards being inundated with thousands of pages of board papers is also wrong. The overwhelming majority of the Council's recommendations go to the structures and processes listed entities should have in place as part of a robust governance framework and don't require lengthy ongoing reporting to the board.

The 'if not why not' framework that underpins the *Principles and Recommendations* gives listed entities the flexibility to adopt different governance practices to those recommended. Any board that considers it has a more effective way to address a particular governance issue is free to adopt it. All it has to do is explain why. Listed entities frequently avail themselves of this opportunity. Once informed, the market can then make its assessment.

The Council is firmly committed to retaining this framework and the primacy of boards in setting appropriate governance arrangements for their listed entities.

Elizabeth Johnstone, Chair
ASX Corporate Governance Council

About the Council

The Council was convened in August 2002. It brings together various business, shareholder and industry groups, each offering valuable insights and expertise on governance issues from the perspective of their particular stakeholders.

The members of the Council are:

- Association of Superannuation Funds of Australia Limited
- ASX Limited
- Australasian Investor Relations Association
- Australian Council of Superannuation Investors
- Australian Financial Markets Association
- Australian Institute of Company Directors
- Australian Institute of Superannuation Trustees
- Australian Shareholders' Association
- Business Council of Australia
- CPA Australia Ltd
- Financial Services Council
- Financial Services Institute of Australasia
- Governance Institute of Australia
- Group of 100

- The Institute of Chartered Accountants in Australia
- Institute of Internal Auditors - Australia
- Institute of Public Accountants
- Law Council of Australia
- Property Council of Australia
- Stockbrokers Association of Australia

The primary work of the Council has been the development of the *Corporate Governance Principles and Recommendations*. These were first introduced in 2003. A second edition was published in 2007 and a third in 2014.

Further information about the Council, including a copy of its charter, is available at:

<http://www.asx.com.au/regulation/corporate-governance-council.htm>.

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