

**IRRIGATION AUSTRALIA LIMITED**

**ACN 002 567 633**

**CONSTITUTION**

DRAFT V29MAY2024

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# IRRIGATION AUSTRALIA LIMITED CONSTITUTION

## PART A — GENERAL

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### 1. Name of the Company

- 1.1. The name of the Company is Irrigation Australia Limited.

### 2. Type of Company

- 2.1. The Company is a public company limited by guarantee incorporated under the *Corporations Act 2001* (Cth), hereinafter referred to as 'the Act'.
- 2.2. The assets and income of the Company must be applied solely in furtherance of the Purpose and no portion of the income or assets of the Company may be paid or transferred, directly or indirectly, to any Member.
- 2.3. Clause 2.2 does not prevent the Company from doing the following things, provided they are done in good faith:
  - a) paying a Member for goods or services they have provided to or expenses they have properly incurred on behalf of the Company at fair and reasonable rates or rates more favourable to the Company,
  - b) reimbursing a Member for reasonable expenses they have properly incurred on behalf of the Company,
  - c) making a payment to a Member in carrying out the Purpose, or
  - d) making a payment for any other bona fide reason related to the attainment of the Purpose.
- 2.4. This Constitution comprises a contract between:
  - a) the Company and each Member,
  - b) the Company and each Director,
  - c) the Company and the Secretary or Secretaries, and
  - d) a Member and each other Member.
- 2.5. The replaceable rules set out in the Act do not apply to the Company.
- 2.6. Each Member must guarantee to pay an amount not more than \$5.00 to the Company if the Company is wound up while the Member is a Member, or within 12 months after they cease being a Member, and this guarantee is required to pay for the:
  - a) debts and liabilities of the Company that exceed the Company's assets incurred before the Member stopped being a Member, and
  - b) costs of winding up the Company.

### 3. Purpose

- 3.1. The Purpose of the Company is to represent the Australian irrigation industry (Industry) and support the adoption of efficient and productive irrigation practices across Australia's food and fibre markets, leisure

activity spaces and commercial activities to ensure the best use of water as a natural resource.

- 3.2. The Company pursues its Purpose through a range of activities and services that may include:
- a) delivering and facilitating training and professional development for the Industry;
  - b) providing information and resources to support the Industry;
  - c) promoting standards and efficiency initiatives in the Industry;
  - d) advocating on behalf of the Industry to government, policy makers and other stakeholders; and
  - e) doing anything ancillary or incidental to the Purpose.

#### 4. Powers of the Company

- 4.1. The Company has the following powers which may be used only to carry out its Purpose:
- a) all the powers of a company limited by guarantee under the Act, and
  - b) the power to do all things necessary or convenient to be done for, or in connection with, the attainment of its Purpose.

#### 5. Definitions

- 5.1. In this Constitution, except as so far as the context or subject matter otherwise indicates or requires:
- a) **Act** means *Corporations Act 2001 (Cth)*,
  - b) **Board** means some or all the Directors acting as the Board of Directors,
  - c) **By-laws** means the rules and regulations made by the Board in accordance with clause 36,
  - d) **Company** means Irrigation Australia Limited (ACN 002 567 633),
  - e) **Constitution** means this constitution as amended from time to time,
  - f) **Director** means an individual elected or appointed as a Director of the Board,
  - g) **General Meeting** means a formal meeting of the Members and includes an Annual General Meeting,
  - h) **Industry** means the Australian irrigation industry,
  - i) **Representative** means an individual appointed by a Member that is not an individual as its representative,
  - j) **Member** means a person whose name is entered in the register of Members as a Member of the Company,
  - k) **Non-Voting Member** means a Member who does not have voting rights as described in clause 7,

- l) **Secretary** means an individual or individuals appointed to undertake the role of Secretary as defined in the Act and in clause 44,
- m) **Office Bearer** means a Director appointed to the position of Chair or Deputy Chair by the Board,
- n) **Voting Member** means a Member with voting rights as described in clause 7,
- o) **Special Resolution** means a resolution at a General Meeting that is passed by at least 75% of the votes cast by Members entitled to vote on the resolution.

## 6. Interpretation

- 6.1. Headings are for convenience only and do not affect the interpretation of this Constitution.
- 6.2. The following rules of interpretation apply unless any contrary intention appears in this Constitution or the context requires otherwise:
  - a) mandatory provisions of the Act override any clause in this Constitution, which is inconsistent with that Act,
  - b) reference to an act includes every amendment, re-enactment, or replacement of that act and any subordinate legislation made under that act such as regulations,
  - c) a reference to a clause or sub-clause is to a clause or sub-clause of this Constitution,
  - d) where a word or phrase is defined, its other grammatical forms or parts of speech have corresponding meaning,
  - e) reference to a person is a reference to an individual, company, any other body corporate, partnership, joint venture, association, or other body whether or not incorporated,
  - f) the words 'writing' and 'written' include any mode of representing or reproducing, including electronically, words, figures, drawings, or symbols in a visible or communicable form,
  - g) the words 'including', 'for example', or similar expressions do not limit the inclusions or examples,
  - h) a gender includes all genders,
  - i) singular includes plural and vice versa.

## PART B — MEMBERSHIP

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### 7. Classes of Membership

- 7.1. There are two classes of membership:
  - a) Voting Members, and
  - b) Non-Voting Members.

- 7.2. Voting Members are persons (including individuals, corporations and other bodies or entities) who:
- a) are engaged in the Industry,
  - b) satisfy any additional requirements for Voting Membership as prescribed by the Board and set out in the By-laws, and
  - c) have been admitted as Voting Members in accordance with this Constitution.
- 7.3. Non-Voting Members are persons (including individuals, corporations and other bodies or entities) interested in the Purpose but who:
- a) do not wish to become Voting Members,
  - b) satisfy any additional requirements for being Non-Voting Members as prescribed by the Board and set out in the By-laws, and
  - c) have been admitted as Non-Voting Members in accordance with this Constitution.
- 7.4. The Board may provide for categories of Members within each class on such terms and conditions as the Board determines.
- 7.5. The Board may determine additional requirements for admission as a Member or as a Member in a particular class or category of membership.

## **8. Rights and Obligations of Members**

- 8.1. A Voting Member has the right to:
- a) receive notices of and to attend General Meetings,
  - b) vote at General Meetings on resolutions put to the Members provided more than 3 months have passed since they became a Voting Member,
  - c) vote in the election for Elected Directors provided more than 3 months have passed since they became a Voting Member, and
  - d) if eligible, to nominate candidates for or be nominated for election as an Elected Director subject to clauses 28.3 and 28.4.
- 8.2. A Non-Voting Member is entitled to receive notices of and to attend General Meetings, but
- a) does not have voting rights,
  - b) is not entitled to nominate or elect Directors, and
  - c) is not entitled to stand for election as a Director.
- 8.3. The Board may extend benefits and services to Members that may differ between classes and categories of membership and within classes and categories of membership.
- 8.4. A Member who has not paid any fees payable by the due date is not entitled to exercise their rights while the fee remains unpaid.
- 8.5. A Member is entitled to exercise their rights if their membership rights are not suspended for any other reason.

- 8.6. Members must comply with:
  - a) this Constitution, and
  - b) any By-laws.
- 8.7. To maintain membership, Members are required to comply with any continuing membership obligations or conditions as determined by the Board and specified in the By-Laws.
- 8.8. A Member must, within a reasonable time, notify the Secretary of any change to their details as recorded in the register of Members.
- 8.9. A right, privilege or obligation held by reason of being a Member:
  - a) subject to clause 9.1, is not capable of being transferred or transmitted to another person, and
  - b) terminates upon cessation of the Member's membership.
- 8.10. The rights of Members are not to be taken as being varied by the admission of more Members or the addition or deletion of classes or categories of membership.
- 8.11. The rights of Members in any class may be varied or cancelled by the Voting Members approving amendments to the Constitution by Special Resolution. For clarity, this shall be taken to be the procedure for varying or cancelling rights of Members in any class.

## **9. Representatives**

- 9.1. If a Member is not an individual, the Member will nominate to the Secretary at the time of application for membership the name of one individual, called the Representative, who will represent that Member at General Meetings and in the case of a Voting Member, may vote on behalf of that Voting Member.
- 9.2. A Member may by notice to the Secretary change its Representative.
- 9.3. The Secretary will keep a register of Representatives.

## **10. Application for Membership**

- 10.1. An application for membership must be in a form prescribed by the Board.
- 10.2. The Board may approve or reject an application for membership.
- 10.3. The Board may refuse any application for membership without being compelled to give the reasons for such refusal.
- 10.4. The Board may delegate the consideration and determination of any membership application.
- 10.5. Once the outcome of a membership application is determined, written notice of the decision of the Board or their delegate is to be sent to the applicant within a reasonable time.
- 10.6. The acceptance of an applicant as a Member is subject to the payment of any fees and if such payment is not made, the Board may cancel its acceptance of the applicant for membership of the Company.



- 10.7. A person becomes a Member and is entitled to exercise the rights and privileges of that membership when their name is entered in the register of Members.

## **11. Membership Fees**

- 11.1. The Board may set any joining fees and/or membership fees and may determine different fees:
- a) for different classes or categories of membership,
  - b) within classes or categories of membership, or
  - c) for different Members.
- 11.2. The Board may in its discretion waive or vary the amount of any fee set.
- 11.3. Any fee charged to Members is payable in such manner and at such times as are determined by the Board.
- 11.4. If any fee remains unpaid for a period of one month after it becomes due, written notice will be given to the Member of that fact. Unless the Board resolves otherwise, if the fee remains unpaid more than two months after the date of the notice, the Member's membership will be terminated.
- 11.5. Membership that has been terminated under this Constitution may be reinstated, at the discretion of the Board, upon payment of the outstanding fee.

## **12. Register of Members**

- 12.1. The Secretary or another person delegated by the Board must establish and maintain a register of Members, which may be in electronic form, containing:
- a) the name of each Member and the date on which they became a Member,
  - b) the Member's address, which may be an email address, to which notices from the Company may be sent,
  - c) the name of each person who has ceased to be a Member and the date on which the person ceased to be a Member, and
  - d) any other information as determined by the Board or required by the Act.

## **13. Ceasing to be a Member**

- 13.1. A Member ceases to be a Member if they:
- a) resign in writing,
  - b) for an individual, die,
  - c) if not an individual, are wound up or are dissolved,
  - d) have their membership terminated or are expelled under this Constitution,

- e) cease to satisfy the criteria to be a Member in their respective class of membership unless they are transferred to another class,
  - f) are convicted of an indictable offence,
  - g) fail to provide any information required by the Board as part of the renewal process, unless the Board resolves otherwise, or
  - h) fail to satisfy any undertaking given by the Member upon them being admitted as a Member or in any other circumstances prescribed in the terms of membership that are applicable to the Member, unless the Board resolves otherwise.
- 13.2. Any Member ceasing to be a Member:
- a) is not entitled to any refund, in full or part, of any membership fees paid, and
  - b) will not be readmitted as a Member until all unpaid fees outstanding at the time they ceased to be a Member are paid, including any interest or other charges levied on any outstanding fees.
- 13.3. Upon ceasing to be a Member, the date on which the Member ceased to be a Member will be recorded in the register of Members.
- 13.4. Any Member ceasing to be a Member remains liable for any fees owing by that Member to the Company and, if the Company is wound up within one year of the date the Member ceases to be a Member, the guarantee under this Constitution.

#### **14. Disciplining a Member**

- 14.1. The Board may make By-laws setting out the disciplinary procedures applicable to Members, including in relation to:
- a) the investigation, handling and resolution of complaints and allegations against Members concerning:
    - i. breaches of the Constitution or the By-laws,
    - ii. the Member acting in a manner prejudicial to the interests of the Company, or acting in a manner that is considered as undesirable for the Member to continue to be a Member, or
    - iii. such other matters as determined by the Board from time to time;
  - b) establishing a Disciplinary Hearing Committee that is responsible for administering the disciplinary procedures and to make decisions regarding the matters referred to in clause 14.1.a).
- 14.2. Decisions available to the Disciplinary Hearing Committee include, but are not limited to:
- a) warning and rectification;
  - b) mandated training or education;
  - c) suspension of membership for a period;
  - d) recommending expulsion of membership, with such decision to be made by the Board pursuant to clause 15.

## **15. Expulsion of Members**

- 15.1. Subject to the outcomes of the formal disciplinary process referred to in clause 14 and set out in the By-laws, the Board may resolve to expel a Member (herein referred to as Expulsion Resolution).
- 15.2. Before passing an Expulsion Resolution, the Member must be given at least 14 days' notice in writing:
  - a) stating the grounds upon which the proposed expulsion is based; and
  - b) informing the Member that they may submit oral and/or written representations to the Board in relation to the proposed expulsion.
- 15.3. Where an Expulsion Resolution is passed, the Secretary must give the Member notice in writing of the expulsion within 14 days of the resolution.
- 15.4. An Expulsion Resolution takes effect on the date of the resolution.
- 15.5. The Board may reinstate an expelled Member on any terms and at any time as the Board resolves.
- 15.6. There will be no liability for any loss or injury suffered by the Member as a result of any decision made in good faith under clause 14 or this clause 15.

## **PART C — GENERAL MEETINGS**

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### **16. Calling a General Meeting**

- 16.1. The Board may call a General Meeting.
- 16.2. The time, place of, and the technology to be used, if any, at the General Meeting is to be determined by the Board.
- 16.3. An Annual General Meeting will be held within five months after the end of each financial year.
- 16.4. A General Meeting may be held at one or more venues, or wholly or partly online or virtually, using any technology that provides the Members or their Representatives with a reasonable opportunity to participate, including the ability to hear and be heard.
- 16.5. A Member or Representative who participates in a General Meeting using the technology prescribed by the Board is taken to be present at the General Meeting and, if the Member or Representative votes at the meeting using the technology prescribed, is taken to have voted in person.
- 16.6. A virtual General Meeting and a General Meeting that is partly held using technology, and partly held at a physical location or locations, is deemed to have been held at the Company's registered office.
- 16.7. A General Meeting:
  - a) must be held at a reasonable time,
  - b) must be held at a reasonable location or locations if it is being held at a physical location or locations and any of the Members or Representatives are entitled to physically attend, and

- c) must be held, if virtual meeting technology is used in holding the meeting, in such a way as to give the Members and Representatives entitled to attend, as a whole, a reasonable opportunity to participate in the meeting without being physically present in the same place.
- 16.8. A General Meeting is taken to be held at a reasonable time if any of the following applies:
- a) if there is only one location at which the Members and Representatives entitled to physically attend the General Meeting may do so, the meeting is held at a time that is reasonable at the location,
  - b) if there are two or more locations at which the Members and Representatives who are entitled to physically attend the General Meeting may do so, the meeting is held at a time that is reasonable at the main location for the General Meeting as set out in the notice of the meeting,
  - c) if the General Meeting is held using virtual meeting technology, the General Meeting is held at a time that is reasonable in the time zone of the Company's registered office.
- 16.9. A General Meeting must also be convened by the Board upon the requisition of not less than 5% of Voting Members.
- 16.10. A requisition for a General Meeting called by Members:
- a) must state the purpose or purposes of the General Meeting,
  - b) must be signed by the Members making the request,
  - c) must be lodged with the Secretary, and
  - d) may consist of several documents in a similar form, each signed by one or more of the Members making the request.
- 16.11. A requisition for a General Meeting called by Members:
- a) may be in electronic form, and
  - b) may include one or more signatures transmitted by electronic means.
- 16.12. If the Board fails to give notice of a General Meeting called by Members within one month after the date on which the request for the General Meeting is lodged, any one or more of the Members making the request may convene a General Meeting which must be held not later than three months after that date.
- 16.13. A General Meeting called by Members must be convened as nearly as is practicable in the same manner as a General Meeting convened by the Board.

## **17. Notice of a General Meeting**

- 17.1. Notice of a General Meeting must be given to:
- a) each Member,
  - b) each Director, and

- c) the auditor, if any.
- 17.2. Notice of a General Meeting must include:
- a) the time, date, place of, and, if any, the technology to be used to facilitate the General Meeting,
  - b) if virtual meeting technology is to be used to hold the General Meeting, sufficient information to allow the Members or their Representatives to participate in the General Meeting by means of the technology,
  - c) a statement that Members may appoint a proxy, and
  - d) if applicable, that a Special Resolution is to be proposed at the General Meeting and the words of the proposed Special Resolution.
- 17.3. Notice of a General Meeting shall be given at least 21 days before the date fixed for the holding of the General Meeting.
- 17.4. Notice of a General Meeting may be given less than 21 days before the meeting if:
- a) for an Annual General Meeting, all the Members entitled to attend and vote at the Annual General Meeting agree beforehand, or
  - b) for any other General Meeting, Members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- 17.5. Notice of a General Meeting must not be provided less than 21 days before the General Meeting if it is proposed that a resolution is to be moved to:
- a) remove a Director,
  - b) appoint a Director to replace a Director who has been removed, or
  - c) remove an auditor.
- 17.6. An Annual General Meeting must be specified as such in the notice convening it.
- 17.7. The accidental failure to give notice of any General Meeting to, or the non-receipt of notice of a General Meeting by, any Member entitled to receive notice will not invalidate the proceedings at or any resolution passed at the General Meeting.
- 17.8. A Members or their Representative's attendance at a General Meeting waives any objection that the Member may have regarding a failure to give notice, or the giving of defective notice, of the General Meeting.

## **18. Business at a General Meeting**

- 18.1. No business other than that specified in the Notice convening a General Meeting is to be transacted at the General Meeting.
- 18.2. The business of an Annual General Meeting may include any of the following, even if not referred to in the notice of the meeting:
- a) the consideration of the annual financial report, the Board report and the auditor's report, if any,

- b) the election or announcement of Directors, if any, and
- c) the appointment of the auditor, if any.

## **19. Proxies at a General Meeting**

- 19.1. A Member is entitled to appoint a proxy by notice given to the Company at the address stated in the notice of General Meeting, which may be an electronic address, at least 48 hours before the time of the General Meeting in respect of which the proxy is appointed.
- 19.2. The Board may prescribe a form of proxy, however, a proxy will be valid provided the instrument purporting to appoint a proxy:
  - a) is in writing,
  - b) contains the Member's name and address, the Company's name and the proxy holder's name or the office held by the proxy holder,
  - c) contains the details of the meeting at which the appointment may be used, and
  - d) contains the details as to how the proxy holder is to vote at the General Meeting.
- 19.3. In the event of a Member not nominating a particular person as proxy holder on the proxy form, the proxy is to be exercised by the chairperson of the General Meeting.
- 19.4. Unless the Company receives written notice before the start or resumption of a General Meeting at which a proxy holder votes, a vote cast by the proxy holder is valid even if, before the proxy holder votes, the appointing Member:
  - a) revokes the proxy holder's appointment, or
  - b) revokes the authority of a representative or agent who appointed the proxy holder.
- 19.5. A proxy holder need not be a Member or a Representative.
- 19.6. A proxy holder does not have the authority to speak and vote for a Member at a General Meeting while the Member or their Representative is at the General Meeting.

## **20. Quorum at a General Meeting**

- 20.1. A quorum for a General Meeting is the lesser of:
  - a) 5% of the Voting Members present and entitled to vote in person, by their Representative or by proxy, or
  - b) 20 Voting Members present and entitled to vote in person, by their Representative or by proxy.
- 20.2. No business may be conducted at a General Meeting if a quorum is not present.
- 20.3. If a quorum is not present within 30 minutes after the time appointed for a General Meeting:

- a) if convened by or on the requisition of Members, the General Meeting is dissolved, and
  - b) in any other case, the General Meeting stands adjourned to such other day, time and place as the Board appoints by notice to the Members and others entitled to notice of the General Meeting.
- 20.4. If at the adjourned General Meeting a quorum is not present within 30 minutes from the time appointed for the General Meeting, the General Meeting will lapse.

## **21. Chairperson of a General Meeting**

- 21.1. The Chair will preside as chairperson of each General Meeting.
- 21.2. If there is no Chair, or the Chair is not present within 15 minutes after the time appointed for the commencement of the General Meeting, or the Chair is unable or unwilling to act as chairperson of the General Meeting or of part of the General Meeting, then the persons below will preside as chairperson of the General Meeting in the following order of precedence:
- a) the Deputy Chair,
  - b) any other Director present who has been appointed as chairperson by the other Directors present, or
  - c) a Member or Representative present chosen by a majority of the Voting Members present.
- 21.3. The chairperson of a General Meeting is responsible for the conduct of the General Meeting and any question arising at a General Meeting relating to the order of business, procedure or conduct of the General Meeting must be referred to the chairperson whose decision is final.
- 21.4. The chairperson of a General Meeting may at any time they consider it necessary or desirable for the proper and orderly conduct of the General Meeting:
- a) impose a limit on the time that a person may speak on a motion or other item of business, question, motion, or resolution being considered by the General Meeting,
  - b) terminate debate or discussion at the General Meeting, and
  - c) adopt any procedures for casting or recording votes at the General Meeting whether on a show of hands or a poll.
- 21.5. The chairperson of a General Meeting may at any time during a General Meeting adjourn the General Meeting from time to time and from place to place, but no business may be transacted at any adjourned General Meeting other than the business left unfinished at the General Meeting from which the adjournment took place.
- 21.6. When a General Meeting is adjourned for 30 days or more, notice of the adjourned General Meeting must be given as in the case of an original General Meeting.

## **22. Methods of Voting at a General Meeting**

- 22.1. A Member or their Representative is not entitled to vote at a General Meeting unless all fees due and payable by the Member to the Company have been paid.
- 22.2. Non-Voting Members are not entitled to vote at a General Meeting.
- 22.3. Upon any question arising at a General Meeting, a Member entitled to vote has one vote.
- 22.4. Votes must be given in person, by Representative or by proxy or when applicable by direct vote.
- 22.5. Proxies must not be counted on a vote by a show of hands.
- 22.6. A Member entitled to vote at a General Meeting may vote by direct vote where such an option is offered by the Board. A direct vote includes a vote delivered to the Company by any means approved by the Board, which may include postal or electronic means.
- 22.7. The Board may prescribe By-laws in relation to direct voting, including specifying the form, method, and timing of giving a direct vote at a General Meeting in order for the vote to be valid.
- 22.8. An objection to the qualification of a Member to vote at a General Meeting:
  - a) must be raised before or at the General Meeting at which the vote objected to is given or tendered, and
  - b) must be referred to the chairperson of the General Meeting whose decision on the qualification to vote is final.
- 22.9. If virtual meeting technology is used to hold a General Meeting and a document is required or permitted to be tabled at the General Meeting, the document is taken to have been tabled at the General Meeting if the document is:
  - a) given to the persons entitled to attend the General Meeting, whether physically or by using virtual meeting technology, before the General Meeting, or
  - b) made accessible to the persons attending the General Meeting, whether physically or by using virtual meeting technology, during the General Meeting.

### **23. Decisions at a General Meeting**

- 23.1. Questions arising at a General Meeting are to be decided by ordinary resolution unless otherwise required by this Constitution or the Act.
- 23.2. An ordinary resolution is a resolution passed by a simple majority of the votes cast.
- 23.3. In the case of an equality of votes upon any proposed resolution, the chairperson of the General Meeting, in addition to any deliberative vote, has a casting vote.
- 23.4. A resolution put to the vote of a General Meeting must be decided on a show of hands unless a poll is demanded in accordance with this



Constitution. On a show of hands, the declaration by the chairperson of the General Meeting is conclusive evidence of the result.

- 23.5. A poll may be demanded before the vote is taken or before or immediately after the declaration of the result of the show of hands by:
- a) the chairperson of the General Meeting,
  - b) at least five Members entitled to vote on the resolution present in person, by their Representative or by proxy at the General Meeting, or
  - c) Members with at least 5% of the votes that may be cast on the resolution on a poll present in person, by their Representative or by proxy at the General Meeting.
- 23.6. Neither the chairperson of the General Meeting nor the minutes of the General Meeting need to state the number or proportion of the votes recorded in favour or against.
- 23.7. The demand for a poll at a General Meeting may be withdrawn.
- 23.8. A demand for a poll at a General Meeting does not prevent the continuation of a General Meeting for the transaction of any business other than the question on which the poll has been demanded.
- 23.9. A poll demanded at a General Meeting must be taken when and in the manner the chairperson of the General Meeting directs, including in relation to how votes of Members attending by technology are to be collected.
- 23.10. A poll on the election of a chairperson of a General Meeting or on the question of an adjournment of a General Meeting must be taken immediately.

## **24. Members Resolutions**

- 24.1. Members with at least 5% of the votes that may be cast on a resolution or at least 100 Members entitled to vote at a General Meeting may give:
- a) written notice to the Company of a resolution, to be called a Members Resolution, which they propose to move at a General Meeting, such resolution being one that may be properly considered at a General Meeting, and
  - b) a written request to the Company that the Company give all Members a statement, to be called a Members Statement, about a proposed resolution or any other matter that may properly be considered at a General Meeting.
- 24.2. A notice of a Members Resolution must set out the wording of the proposed resolution and be signed by the Members proposing the resolution.
- 24.3. A request to distribute a Members Statement must set out the statement to be distributed and be signed by the Members making the request.
- 24.4. Separate copies of a document setting out the notice or request may be signed by Members if the wording is the same in each copy.

- 24.5. The percentage of votes of Members is to be calculated as at midnight before the request or notice is given to the Company.
- 24.6. If the Company has been given notice of a Members Resolution, the resolution must be considered at the next General Meeting that occurs more than two months after the notice is given.
- 24.7. The Company must give Members notice of the Members Resolution or a copy of the Members Statement at the same time, or as soon as practicable afterwards, and in the same way, as it gives notice of a General Meeting.
- 24.8. The Company is responsible for the cost of giving Members notice of the Members Resolution or a copy of the Members Statement if the Company receives the notice in time to send it out to Members with the notice of General Meeting.
- 24.9. The Members proposing the Members Resolution are jointly and individually liable for the expenses reasonably incurred by the Company in giving Members notice of the Members Resolution or a copy of the Members Statement if the Company does not receive the Members' notice in time to send it out with the notice of General Meeting. At a General Meeting, the Company may resolve to meet the expenses itself.
- 24.10. The Company does not need to send the notice of proposed Members Resolution or a copy of the Members Statement to Members if:
- a) it is more than 1,000 words long,
  - b) the Board considers it may be defamatory,
  - c) the Members who proposed the resolution or made the request have not paid the Company enough money to cover the cost of sending the notice of the proposed Members Resolution or a copy of the Members Statement to Members, or
  - d) in the case of a proposed Members Resolution, the resolution does not relate to a matter that may be properly considered at a General Meeting or is otherwise not a valid resolution able to be put to the Members.

## **25. Cancellation or Postponement of a General Meeting**

- 25.1. The Board may cancel, postpone, or change the venue of a General Meeting at any time prior to the meeting except in the case of a General Meeting called upon the requisition of Members.
- 25.2. The Board must give notice of the postponement, cancellation or change of venue of a General Meeting to all persons entitled to receive notices of a General Meeting.

## **PART D — BOARD OF DIRECTORS**

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### **26. Board Composition**

- 26.1. The Board will have up to 12 Directors comprising:

- a) 10 Directors elected by the Voting Members who will be Elected Directors, and
  - b) up to 2 Directors appointed by the Board who will be Appointed Directors.
- 26.2. No more than two Directors on the Board shall be employees or directors of the same Member that is not an individual.
- 26.3. Where the office of a Director becomes vacant, the continuing Directors may continue to act except where the number of Directors is reduced to fewer than three Directors, in which case the continuing Directors may act only:
- a) to appoint Directors for the purpose of increasing the number of Directors to three or higher,
  - b) to convene a General Meeting, or
  - c) in an emergency.

## **27. Terms of office for Directors**

- 27.1. A term of an Elected Director is approximately 2 years from the close of the Annual General Meeting at which their election is declared or announced until the end of the second following Annual General Meeting. Elected Directors may seek re-election at the expiry of their term subject to clause 27.6.
- 27.2. Of the 10 Elected Directors, 5 Elected Director positions are to be elected every odd year and 5 Elected Director positions are to be elected every even year.
- 27.3. If a casual vacancy in the position of an Elected Director occurs, the Board may appoint an eligible individual to fill the vacancy until the expiration of the remainder of the predecessor's term.
- 27.4. An Appointed Director is to serve a term of up to 2 years as determined by the Board and may, if eligible, be reappointed as Appointed Director at the discretion of the Board, subject to clause 27.6.
- 27.5. If a casual vacancy in the position of an Appointed Director occurs, the Board may appoint a new Appointed Director for a term of up to two years as determined by the Board.
- 27.6. The maximum continuous period that a Director may serve as a Director (Maximum Continuous Period) is as follows:
- a) an Elected Director may serve up to 5 consecutive terms, and
  - b) no Director may serve more than 10 consecutive years.
- 27.7. A person who has held office as a Director for the Maximum Continuous Period is eligible for re-election or reappointment after a period of 24 months from the date that the person last held office as a Director.
- 27.8. The Maximum Continuous Period does not include any period of a Director's appointment to fill a casual vacancy under clause 27.3.

## **28. Eligibility of Directors**

- 28.1. A person is eligible for election or appointment as a Director if they:
  - a) are over the age of 18 years,
  - b) provide their signed consent to act as a Director,
  - c) are not ineligible to be a Director under law, including under the Act,
  - d) have a Director Identification Number, and
  - e) are not an employee of the Company.
- 28.2. An Elected Director must be a Voting Member or an employee or director of a Voting Member.
- 28.3. A Voting Member that is an individual may only be nominated for election as an Elected Director if, at the time of their nomination, at least 12 months have passed since they became a Voting Member.
- 28.4. An employee or director of a Voting Member may only be nominated for election as an Elected Director if at least 12 months have passed since the Voting Member became a Voting Member at the time of nominating their candidate.

## **29. Election of Elected Directors**

- 29.1. Elections are to be held prior to the Annual General Meeting in accordance with any By-laws.
- 29.2. Prior to an Annual General Meeting, the Board will:
  - a) give notice to the eligible Voting Members of the number of vacancies that may be filled, and
  - b) invite nomination of candidates for election as Elected Directors from the eligible Voting Members.
- 29.3. Voting Members that are individuals may self-nominate.
- 29.4. Subject to clause 26.2, Voting Members that are not individuals may nominate up to 1 candidate for election.
- 29.5. Nominations must be:
  - a) in writing in the form prescribed by the Board,
  - b) signed by the candidate expressing their consent to serve as an Elected Director,
  - c) if clause 29.4 applies, authorised by the Voting Member in a manner determined by the Board,
  - d) include any required information (such as the candidate's skills and experience) as determined by the Board, and
  - e) lodged with the Secretary by the prescribed time.
- 29.6. Only those candidates who satisfy the requirements in clauses 28 and 29.5 are eligible to stand for election as an Elected Director.

- 29.7. If the number of eligible candidates for election as Elected Directors exceeds the number of vacancies to be filled, a ballot must be held prior to the Annual General Meeting, which may be an electronic ballot as determined by the Board.
- 29.8. Each Voting Member that is entitled to vote may vote in the ballot.
- 29.9. A ballot will be conducted in a manner and be in such form to accommodate the counting of votes that ensures compliance with clause 26.2.
- 29.10. Results of an election of Elected Directors are to be announced at the Annual General Meeting.
- 29.11. If the number of eligible candidates for election as Elected Directors is equal to or less than the number of vacant Elected Director positions to be filled, then the candidates nominated are to be declared elected at the Annual General Meeting following the close of nominations without the need for a ballot.
- 29.12. Any unfilled positions for election as Elected Directors because of insufficient nominations are to be deemed as casual vacancies.

### **30. Appointment of Appointed Directors**

- 30.1. The Board may appoint up to 2 Appointed Directors. An Appointed Director may be but does not need to be a Member.
- 30.2. An Appointed Director will have the experience, perspectives, capabilities, or skills as the Board considers desirable.

### **31. Ceasing to be a Director**

- 31.1. In addition to any other way a Director vacates office under the Act or this Constitution, a Director ceases to be a Director if they:
- a) resign by written notice to the Chair or the Secretary,
  - b) are subject to any of the circumstances prescribed by the Act resulting in the ending or vacating of the position of Director,
  - c) are an Elected Director and cease to satisfy the criteria in clause 28.2, unless the Board resolves otherwise,
  - d) become a person whose estate or person is liable to be dealt with under the law relating to mental health,
  - e) die,
  - f) become bankrupt or make any arrangement or composition with their creditors generally, unless, subject to the Act, the Board resolves otherwise,
  - g) are convicted on indictment of an offence and the Board does not at the next meeting of the Board after that conviction resolve to confirm the Director's appointment to the position of Director,
  - h) are absent without the consent of the Board from meetings of the Board for a continuous period of 6 months,

- i) fail to disclose a material personal interest in breach of the law unless at its next meeting the Board resolves otherwise,
- j) are removed from the position of Director by the Voting Members pursuant to clause 32,
- k) become a paid employee of the Company,
- l) are found guilty by a tribunal, industrial commission, court of competent jurisdiction or other similar authority of engaging in discriminatory conduct or harassment towards employees of the Company or other Members or their employees,
- m) are prohibited from being a director under the Act, or
- n) are convicted of an offence involving fraud or dishonesty for which the maximum penalty is imprisonment for at least three months.

### **32. Removing a Director**

- 32.1. The Voting Members may by ordinary resolution at a General Meeting remove a Director from their position as Director before the expiration of the Director's term of office.

### **33. No Alternate Directors**

- 33.1. Directors are not entitled to appoint alternate directors.

### **34. Office Bearers**

- 34.1. The Office Bearers are:
- a) a Chair, and
  - b) a Deputy Chair.
- 34.2. The Board will appoint the Office Bearers from amongst the Elected Directors at the first Board meeting after each Annual General Meeting or at any time after a vacancy in the position of an Office Bearer arises.
- 34.3. Each Office Bearer while they remain a Director will hold their position:
- a) for the period from when they are appointed to the relevant position until the commencement of the first Board meeting after the next Annual General Meeting; or
  - b) until they resign from their position as Office Bearer by written notice to the Secretary in which case they would remain a Director unless they also resign as a Director; or
  - c) until they are removed from their position as Office Bearer by resolution of the Board, in which case they would remain a Director.
- 34.4. The Office Bearers have such powers and duties as specified in this Constitution, as required by law, and as determined by the Board.
- 34.5. The Officer Bearers are not to hold office beyond their retirement or removal from the Board as a Director.

### **35. Powers of the Board**

- 35.1. The powers of the Board are, subject to the Act and this Constitution, to:
- a) control and manage the affairs of the Company,
  - b) exercise all the functions as may be exercised by the Company other than those functions that are required by this Constitution or the Act to be exercised by a General Meeting, and
  - c) perform all such acts and do all such things as appear to the Board to be necessary or desirable for the proper management of the affairs of the Company.
- 35.2. The Board may delegate any of its powers to:
- a) a committee,
  - b) a Director,
  - c) an employee of the Company, or
  - d) any other person,
- and may revoke that delegation.
- 35.3. The delegate must exercise the powers delegated in accordance with any directions, terms, and conditions as set by the Board.

### **36. By-Laws**

- 36.1. The Board may make, amend, or repeal such By-laws as it determines are appropriate for the purposes of giving effect to any provision of this Constitution or to govern the procedures and activities of the Company.
- 36.2. Any By-laws:
- a) must be consistent with the provisions in this Constitution, and
  - b) when in force, are binding on all Members.

### **37. Duties of Directors**

- 37.1. The Directors must comply with their duties as Directors under legislation and common law which includes the duty:
- a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a Director of the Company,
  - b) to act in good faith in the best interests of the Company and to further the Purpose of the Company,
  - c) not to misuse their position as a Director,
  - d) not to misuse information they gain in their role as a Director,
  - e) to maintain the confidentiality of information received in their role as a Director,
  - f) to act in the best interests of the Company,
  - g) to disclose any material personal interest in a matter that relates to the affairs of the Company,

- h) to disclose any conflict of interest which may prevent them from properly fulfilling their duties as a Director,
  - i) to ensure that the financial affairs of the Company are managed responsibly, and
  - j) not to allow the Company to operate while it is insolvent.
- 37.2. The Board may make By-laws or adopt a policy consistent with the Act dealing with the disclosure and management of Directors' conflicts of interest.

### **38. Payments to Directors**

- 38.1. Directors are not entitled to be paid fees for acting as a Director.
- 38.2. Directors are entitled to:
- a) be reimbursed for expenses properly incurred by the Director in connection with the affairs of the Company where the amount payable does not exceed an amount previously agreed by the Board; and
  - b) be paid for any work they do for the Company, other than as a Director, where the provision of work has the prior approval of the Board and the amount payable is no more than a reasonable fee for the work done.

### **39. Board Meetings**

- 39.1. The Board may meet, including by technological means, for the dispatch of business, and adjourn and otherwise regulate its meetings.
- 39.2. The Chair alone, or any two Directors, may convene a Board meeting.
- 39.3. At a Board meeting:
- a) the Chair or, in the Chair's absence, the Deputy Chair is to preside as chairperson, or
  - b) if the Chair and the Deputy Chair are absent or unwilling to act, one of the remaining Directors may be chosen by the Directors present at the Board meeting to preside as chairperson.
- 39.4. Questions arising at any Board meeting are to be decided by a simple majority of votes of those Directors present and entitled to vote.
- 39.5. Directors are to have one vote on any question at a Board meeting.
- 39.6. Directors may not assign proxies at a Board meeting.
- 39.7. In the event of an equality of votes on any question at a Board meeting, the chairperson of the Board meeting has a second or casting vote.
- 39.8. A Board meeting may be held using technology that allows the Directors in attendance to communicate with each other clearly and simultaneously.
- 39.9. A Director who participates in a Board meeting using technology is taken to be present at the Board meeting and, if the Director votes at the Board meeting, is taken to have voted in person.



39.10. The Board may invite third parties to attend a Board meeting as observers.

#### **40. Notice of a Board Meeting**

- 40.1. Subject to clause 40.3, notice of a Board meeting must be given to each Director at least seven days or such other period as may be unanimously agreed upon by the Directors before the time appointed for the holding of the Board meeting.
- 40.2. Notice of a Board meeting must be given by such means as agreed by the Directors.
- 40.3. In cases of urgency, a Board meeting can be held without the usual notice provided that as much notice as practicable is given to each Director by the quickest means practicable.
- 40.4. Non receipt of any notice of a Board meeting by a Director does not affect the validity of the convening of the Board meeting.

#### **41. Quorum at a Board Meeting**

- 41.1. To transact business at a Board meeting, a quorum of Directors is required during the time in which the business is dealt with at the Board meeting.
- 41.2. The quorum for a Board meeting is a majority of the Directors currently in office.

#### **42. Decisions of the Board without a Board Meeting**

- 42.1. The Board may pass a resolution without a Board meeting being held if the proposed resolution is sent to the Directors and a majority of Directors assent to the resolution in writing within the time specified.
- 42.2. A resolution is taken to have been passed on the date the resolution was assented to by the last Director who constituted the majority of Directors in favour.
- 42.3. The resolution may consist of multiple copies of the same document, which may be in the form of electronic communication, each signed or authorised by one or more Directors.

#### **43. Validity of Acts of Directors**

- 43.1. All acts done at any Board meeting or by any individual acting as a Director are valid even if it is later discovered that there was a defect in the appointment of a person as a Director or the person not being entitled to vote.

### **PART E — ADMINISTRATIVE MATTERS**

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#### **44. Secretary**

- 44.1. The Board must appoint at least one Secretary.
- 44.2. The Secretary holds office on such terms and conditions as the Board determines.

- 44.3. The Board may remove any Secretary, subject to the terms of any contract and the law.
- 44.4. The Secretary has such powers and duties as specified in this Constitution, the Act, and as determined by the Board.

#### **45. Minutes**

- 45.1. The Company must keep minutes of:
- a) proceedings and resolutions of General Meetings,
  - b) proceedings and resolutions of Board meetings,
  - c) proceedings of committee meetings, and
  - d) resolutions passed by the Board without a meeting.
- 45.2. The Company must ensure that the minutes of a meeting are signed within a reasonable time after the meeting which is usually within one month by the Chair of the meeting at which the proceedings were held, or by the Chair of the next meeting.

#### **46. Service of Notices to Members**

- 46.1. A notice may be given by the Company to a Member by:
- a) serving it on the Member personally,
  - b) sending it by post to the Member's address as shown in the register of Members,
  - c) sending it to an electronic contact address such as an e-mail address, that the Member has supplied to the Company or to an address which the Member has contacted the Company in the past, or
  - d) making a copy of it accessible electronically and advising the Member of its availability via the electronic contact address.
- 46.2. Where a notice is sent by post, service of the notice is taken to be effected three days after it is posted.
- 46.3. Where a notice is sent by email or by other electronic means, service of the notice is taken to be effected on the day it is sent or on the day the Member is advised via the electronic contact address that the notice is accessible electronically.

#### **47. Accounts and Audit**

- 47.1. The Company must make and keep written financial records that:
- a) correctly record and explain its transactions and financial position and performance, and
  - b) enable true and fair financial statements to be prepared and to be audited if required.

#### **48. Inspection of Records**

- 48.1. A Member other than a Director does not have the right to inspect any books, records, or documents of the Company except as provided by law or authorised by the Board.

#### **49. Common Seal**

- 49.1. The common seal of the Company, if any, must not be used without the express authority of the Board.
- 49.2. The affixing of the common seal of the Company must be witnessed by any two Directors.
- 49.3. Documents may be executed without the common seal if signed by authorised signatories.

#### **50. Indemnity of Directors**

- 50.1. The Company indemnifies each officer of the Company out of the assets of the Company, to the relevant extent, against all losses and liabilities (including costs, expenses and charges) incurred by that person as an officer of the Company.
- 50.2. In this clause 50, 'officer' means a Director or Secretary and includes a Director or Secretary after they have ceased to hold that office.
- 50.3. In this clause 50, 'to the relevant extent' means:
- a) to the extent that the Company is not precluded by law including the Act from doing so, and
  - b) for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person including an insurer under an insurance policy.
- 50.4. The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer of the Company.
- 50.5. To the extent permitted by law, the Company may:
- a) purchase and maintain insurance, and
  - b) pay or agree to pay a premium for an insurance, against any liability incurred by the officer as an officer including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal.

#### **51. Changes to the Constitution**

- 51.1. The Company may modify or repeal this Constitution, or a provision of this Constitution, by the Voting Members passing a Special Resolution and following the requirements of the Act.

#### **52. Winding Up the Company**

- 52.1. Voluntary dissolution of the Company may only be achieved by a Special Resolution of Voting Members and following all the requirements of the Act.

- 52.2. If the Company is wound up, any surplus assets must not be distributed to a Member or a former Member in their capacity as a Member.
- 52.3. Subject to the Act, any other applicable laws, and any court order, any surplus assets that remain after the Company is wound up must be distributed to one or more entities:
- a) with purposes similar to, or inclusive of, the Purpose, and
  - b) which prohibits the distribution of any surplus assets to its members to at least the same extent as the Company.
- 52.4. The decision as to the organisation or organisations to be given the surplus assets must be made by a Special Resolution of Voting Members at or before the time of winding up.
- 52.5. If the Voting Members do not make this decision, the Company may apply to the Supreme Court of New South Wales to make this decision.

### **53. Transitional Arrangements**

- 53.1. Membership transition - Upon adoption of this Constitution:
- a) Any Member on the register of Members at the time of adoption of this Constitution with voting rights (including a Life Member) will be classified as a Voting Member.
  - b) Any Member listed on the register of Members at the time of adoption of this Constitution without voting rights (including a Branch Member, Student Member, Honorary Member or Affiliated Member) will be classified as a Non-Voting Member.
- 53.2. Board transition - Upon adoption of this Constitution:
- a) The Directors in office may serve out the remainder of their terms pursuant to the constitution that this Constitution replaces, and if eligible may be nominated to stand for re-election.
  - b) In conjunction with the 2025 AGM, elections will be held in accordance with clause 29.
  - c) Any time served as a Director immediately prior to the adoption of this Constitution will not be taken into account in determining the Maximum Continuous Period under clause 27.6.
- 53.3. Transition - Committees of the Board
- a) Any committee established under the constitution that this Constitution replaces will continue until otherwise dissolved by the Board.

END OF CONSTITUTION