

Constitution

Institute of Public Works Engineering Australasia Queensland Ltd

A Public Company Limited by Guarantee

1 Name of the Company

The name of the Company is the Institute of Public Works Engineering Australasia Queensland Ltd.

2 Type of Company

The Company is a not-for-profit public company limited by guarantee.

3 Application of the Corporations Act

- (a) The replaceable rules in the Corporations Act do not apply to the company.
- (b) Where an expression is used in a manner consistent with a provision of the Corporations Act, the expression has the same meaning as in that provision.

4 Application of the ACNC Legislation

If the company is registered as a charity by the ACNC, the company must comply with the ACNC Act and ACNC Regulations.

5 Definitions and Interpretation

5.1 Definitions

In this constitution, unless there is something in the subject or context which is inconsistent:

ACNC means the Australian Charities and Not-for-Profits Commission.

ACNC Act means the *Australian Charities and Not-for-Profits Commission Act 2012* (Cth).

ACNC Regulations means whichever of the *Australian Charities and Not-for-profits Commission Amendment Regulation 2013* (Cth) or any amended version of that regulation which is in force from time to time.

AGM means an Annual General Meeting.

At-Large Director means any person holding the position of Director of the Company who does not additionally hold any other position or role.

Board means all or any number of Directors for the time being assembled at a meeting of Directors and not being less than a quorum.

Business Day means a day that is not a Saturday, Sunday or public holiday in Queensland.

Bylaws means the bylaws adopted and amended by the Board from time to time in accordance with **clause 56**.

Branch means a subset of the membership based on the criteria established by the Board from time to time.

Branch Committee means a group of members who belong to the Branch and who are responsible for the activities of the Branch.

Branch President means the president of a branch who is also a Director of the Company.

Chairperson means the person holding that office under this constitution and includes an acting chairperson.

Charity means an entity that is registered with the ACNC.

Chief Executive Officer means the most senior executive of the Company.

Committee means a committee established in accordance with **clause 51**.

Company means the Institute of Public Works Engineering Australasia Queensland Ltd.

Company Secretary means the person appointed as the Company Secretary of the company and includes any acting Company Secretary.

Constitution means this constitution as amended or supplemented from time to time.

Corporations Act means the *Corporations Act* 2001 (Cth).

Disciplinary Committee means the Committee referred to in **clause 15**.

Member means Legal Persons admitted as members of the company in any membership category from time to time.

Member's Guarantee means the amount referred to in **clause 62.1(b)**.

Minute Register means the place where all minutes are stored which may be in electronic format.

Objects means the objects of the Company as set out in **clause 6.1**.

Office means the registered office for the time being of the Company.

Public Works means the design and construction of physical assets, the accompanying management practices and policies, and the people required so governments can deliver sustainable infrastructure and levels of services to ensure a high quality of life for our citizens.

Register means the register of members to be kept pursuant to the Corporations Act.

Special Resolution has the meaning given to it by the Corporations Act.

Subscription means the subscription fees payable by members pursuant to **clause 12**.

Voting Members includes all members who have paid the annual subscription within the time limits specified in **clause 13(a)(iv)**.

5.2 Interpretation

- (a) In this constitution, unless there is something in the subject or context which is inconsistent:
- (i) the singular includes the plural and vice versa;
 - (ii) each gender includes other genders;
 - (iii) the word **person** means a natural person and any partnership, association, body or entity whether incorporated or not;
 - (iv) the words **writing** and **written** include any other mode of representing or reproducing words, figures, drawings or symbols in a visible form;
 - (v) where any word or phrase is defined, any other part of speech or other grammatical form of that word or phrase has a similar meaning;

- (vi) a reference to any clause or schedule is to a clause or schedule of this constitution;
- (vii) a reference to any statute, proclamation, rule, code, regulation or ordinance includes any amendment, consolidation, modification, re-enactment or reprint of it or any statute, proclamation, rule, code, regulation or ordinance replacing it;
- (viii) an expression used in a particular Part or Division of an Act or Regulation that is given by that Part or Division a special meaning for the purposes of that Part or Division has, unless the contrary intention appears, in any clause that deals with a matter dealt with by that Part or Division the same meaning as in that Part or Division; and
- (ix) headings do not form part of or affect the construction or interpretation of this constitution.

6 Objects

6.1 Objects

- (a) The object of the Company is to enhance the quality of life for all Queensland communities by advancing the skills, knowledge and resources available to those involved in the planning and provision of public works and services.
- (b) To achieve these objects, the Company may, without limitation:
 - (i) Provide education, training, research and resources for the personal and professional development of those involved in the delivery of public works and services in Queensland;
 - (ii) Encourage those responsible for the delivery of public works and services for communities across Queensland, to observe and respect the natural environment and to enhance it for the benefit of future generations;
 - (iii) Provide guidance and advice on best practices for the delivery of projects and infrastructure that will help secure the health and safety of our citizens;
 - (iv) Create an environment which enables the exchange of ideas, learnings, information and technology in the science and practice of all aspects of public works which can then be shared with other industry associations to further benefit society as a whole;
 - (v) Encourage, recognise and reward excellence in the delivery of public works and services;
 - (vi) Advance the knowledge and understanding of the public works sector within the community generally;
 - (vii) Develop tools and resources that will assist public works practitioners observe and respect native title and cultural heritage requirements;
 - (viii) Promote IPWEAQ as the principal source of credible, authoritative advice and information on all public works and services matters in Queensland;
 - (ix) Contribute information, resources and expertise that will enable the long term financial sustainability of local government;
 - (x) Anything ancillary or incidental to the objects in clause 6.1(a).

7 Not-for-profit

7.1 Promotion of the objects

The income and property of the company must only be applied towards promoting the company's objects set out in this constitution.

7.2 No income or property to a member

No income or property of the company may be paid or transferred, directly or indirectly, to a member except for payments to a member:

- (a) in carrying out the company's charitable purpose;
- (b) in return for services rendered by, or goods supplied, by the member to the company in the ordinary and usual course of business;
- (c) for reasonable and proper rent for premises leased by a member to the company;
- (d) as principal payments on money lent by the member, and interest payments if the interest is at a commercial rate.

7.3 Remuneration of Directors

No payment shall be made to any Director other than payment for:

- (a) out of pocket expenses incurred by the Director in the performance of any duty as a Director where the amount payable does not exceed an amount previously approved by the Board;
- (b) any service rendered to the Company by the Director in a professional or technical capacity, other than in the capacity as Director, where the provision of the service has the prior approval of the Board and where the amount payable is approved by the Board and is not more than an amount which commercially would be reasonable for the service; and

MEMBERSHIP

8 Admission to Membership

8.1 Eligibility for Membership

Any individual is entitled to become a member if the individual:

- (a) agrees to assume the liability to pay the Member's Guarantee;
- (b) satisfies the criteria for the relevant membership category determined by the Board from time to time;
- (c) supports the Objects of the Company and agrees to comply with the terms of this Constitution and any code of conduct the Board may endorse from time to time;
- (d) is a person of good character;
- (e) lodges an application in the required form in effect from time to time; and
- (f) pays the required fees in effect from time to time including any entrance fees.

9 Membership Categories

- 9.1 The categories of membership of the Company and the qualifications or criteria for each shall be as the Board prescribes from time to time.

10 Applications for Membership

10.1 Applications for Membership

- (a) An application for membership must:
- (i) be made on the form prescribed by the Company from time to time;
 - (ii) specify the category of membership;
 - (iii) include acknowledgement that the applicant agrees to be bound by this Constitution as amended from time to time and any subordinate rules or bylaws in effect from time to time;
 - (iv) be accompanied by the subscription payable at the time of application pursuant to **clause 12(a)**.
- (b) The applicant will be entered on the Register of Members upon submission of the application form and payment of subscriptions pursuant to **clause 12(a)**.

11 Membership Not Transferable

A right, privilege or obligation which a person has by reason of being a member:

- (a) cannot be transferred or transmitted to another person; and
- (b) terminates on cessation of the person's membership.

12 Subscriptions

- (a) There shall be an annual subscription payable by each member to the Company determined by the Board each year. The Board may additionally prescribe an entrance fee to be paid by new members.
- (b) Subject to **clause 12(c)**, the amount of the entrance fee if any and the annual subscription shall be payable by members at such times and in such manner as determined by the Board from time to time.
- (c) The Board may in its discretion:
 - (i) determine that no entrance fee or annual subscription is payable by a member or members (in whole or in part) in a given year; and
 - (ii) extend the time for payment of the entrance fee or annual Subscription for any member or members.
- (d) No part of any entrance fee or annual subscription shall be refunded to a member who ceases to be a member in accordance with **clause 13**.

13 Cessation of Membership

- (a) A member's membership will cease:
 - (i) on the date the Company Secretary or delegate receives written notice of resignation from the member;

- (ii) upon the member's death;
 - (iii) upon the member no longer satisfying the criteria for any category of membership;
 - (iv) subject to **clause 12(c)**, if the member fails to pay the annual subscription within sixty (60) days after it falls due and then fails to rectify this default within thirty (30) days of being notified of the default by the Company;
 - (v) if the Member is expelled from the Company pursuant to **clause 15**;
 - (vi) if the Company in general meeting resolves by Special Resolution to terminate the membership of a member whose conduct or circumstances in the opinion of the Company renders it undesirable for that that member to continue as a member of the Company. The Member must be given at least twenty one (21) days' notice of the proposed resolution and must be given the opportunity to be heard at the meeting at which the resolution is proposed.
- (b) A member may at any time, pursuant to **clause 13(a)(i)**, resign as a member but shall continue to be liable for:
- (i) any monies due by the member to the Company;
 - (ii) any sum for which the member is liable as a member of the Company under **clause 62.1(b)**.

14 Register of Members

- (a) A register of all members must be kept and include the following information:
- (i) full name and contact details of the member;
 - (ii) date of admission as a member;
 - (iii) the membership category and the date a category changes;
 - (iv) member's employer and position held;
 - (v) date of death or resignation of the member;
 - (vi) details about the termination or reinstatement of membership; and
 - (vii) any other particulars the Board may determine from time to time.
- (b) The register must be open for inspection at all reasonable times however before a member may inspect the register for the purpose of inspecting their own records, the member must apply to the Company Secretary.

15 Disciplining of Members

15.1 Disciplining of Members

- (a) Where the Board is of the opinion that a member has:
- (i) persistently refused or neglected to comply with a provision or provisions of this Constitution or any code of conduct; or
 - (ii) persistently and wilfully acted in a manner prejudicial to the interests of the Company;

the Board may:

- (iii) expel the member from the Company; or
 - (iv) suspend the member from membership of the Company for a specified period.
- (b) A resolution of the Board pursuant to **clause 15.1** is of no effect until the Board confirms the resolution at a Board meeting held not earlier than fourteen (14) days and not later than twenty eight (28) days after service on the member of a notice pursuant to **clause 15.1(c)**.
- (c) If the Board resolves under **clause 15.1** to expel or suspend any member, the Company Secretary must serve the member with a notice in writing:
- (i) setting out the resolution of the Board and the grounds upon which it is based;
 - (ii) stating that the member may address the Board at a Board meeting to be held not earlier than fourteen (14) days and not later than twenty eight (28) days after service of the notice;
 - (iii) stating the date, place and time of that meeting; and
 - (iv) informing the member that the member may:
 - (A) attend and speak at that meeting;
 - (B) submit to the Board at or prior to the date of the meeting, written representations relating to the resolution.
- (d) At a meeting of the Board held as referred to in **clause 15.1(c)**, the Board must:
- (i) give the member an opportunity to make oral representations;
 - (ii) give due consideration to any written representations submitted to the Board by the member at or prior to the Board meeting; and
 - (iii) by a resolution of at least 75% of the Directors participating in the Board meeting, determine whether to confirm or to revoke the resolution.
- (e) The Member must be notified in writing of the decision of the Board within seven (7) days. If the Board resolves to confirm the expulsion or suspension, the Member must also be notified of the right of appeal available under **clause 15.2**.
- (f) A resolution confirmed by the Board under **clause 15.1(d)** does not take effect:
- (i) until the expiration of the period within which the Member is entitled to appeal against the resolution where the Member does not exercise the right of appeal within that period; and
 - (ii) if the Member exercises the right of appeal, after the Disciplinary Committee confirms the resolution pursuant to **clause 15.2(d)(ii)**.

15.2 Right of Appeal of Disciplined Member

- (a) The Board will establish a committee for the purpose of conducting disciplinary proceedings against a member (**Disciplinary Committee**). The Disciplinary Committee will comprise an independent panel of three experts, all chosen by the Board. The experts will be chosen based on the nature of the alleged misconduct

- by the member. The Disciplinary Committee may seek advice from any relevant source.
- (b) A member may appeal to the Disciplinary Committee against a resolution of the Board which is confirmed under **clause 15.1(d)**. Written notice of such an appeal must be lodged with the Company Secretary within seven (7) days of service of the notice required under **clause 15.1(e)**.
 - (c) Within thirty-five (35) days after receipt of a notice of appeal from the member pursuant to **clause 15.2(b)**, the Disciplinary Committee must convene a meeting.
 - (d) At the Disciplinary Committee meeting convened under **clause 15.2(c)**:
 - (i) the Member must be given the opportunity to state their case orally, in writing, or both using any technology reasonably available to the Board that gives the member a reasonable opportunity to do so; and
 - (ii) the Disciplinary Committee must vote by ballot on the question of whether the resolution will be confirmed.
 - (e) The Disciplinary Committee's decision pursuant to **clause 15.2(d)(ii)** is final. The member is not entitled to appeal the Disciplinary Committee's decision.
 - (f) The member who is the subject of these disciplinary procedures is entitled to:
 - (i) subject to **clause 15.2(f)(ii)**, bring a support person to any meeting with the Disciplinary Committee or the Board which meetings are being held pursuant to this **clause 15**; and
 - (ii) if the support person is legally qualified, the Member must notify the Disciplinary Committee or the Board (as the case may be) at least five (5) business days before the meeting that the support person attending the meeting will be legally qualified.
 - (g) Natural justice applies for all disciplinary processes under this **clause 15**, requiring the Board and Disciplinary Committee to act fairly, in good faith and without bias or conflict of interest when making its decision.

16 Resolution of Disputes Between Members

- (a) Disputes between members (in their capacity as members), or between a member and the Board, shall be referred to the Board which must take steps to resolve the dispute.
- (b) If a dispute referred pursuant to **clause 16(a)** is not resolved to the satisfaction of any party to the dispute within thirty (30) days of being referred, that party may refer the dispute to mediation before a mediator appointed by mutual agreement of the parties.
- (c) Failing agreement by the parties to the appointment of a mediator within fourteen (14) days of a party notifying the other party of its intention to refer the dispute to mediation, a mediator shall be appointed by the Chair of the Resolution Institute, Level 2, 13-15 Bridge Street, Sydney NSW 2000.
- (d) The costs of the mediator appointed pursuant to **clause 16(b)** shall be shared equally between the parties to the dispute.

GENERAL MEETINGS

17 Convening of General Meetings

17.1 AGMs

Despite section 111L of the Corporations Act, the company must hold a general meeting, to be called the Annual General Meeting (**AGM**), at least once in every calendar year (after the end of the first financial year).

17.2 Convening of General Meetings

- (a) The Company Secretary may call a general meeting of the membership in accordance with this rule.
- (b) Any Directors representing fifty per cent (50%) of the Board at that time may ask the Company Secretary to convene a general meeting of the Company.
- (c) The Board must call and arrange to hold a general meeting on the written request of 25% of the members of the company (which request must set out the nature of the business to be put to the members).
- (d) A general meeting of the Company may be convened at two (2) or more venues using any technology that gives members a reasonable opportunity to participate in the meeting.

18 Notice of General Meeting

- (a) Subject to consent to shorter notice being given in accordance with the Corporations Act (notwithstanding the application of section 111L of the Corporations Act), at least twenty one (21) days' notice of any general meeting must be given specifying:
 - (i) the place, day and hour of the meeting;
 - (ii) the general nature of any business to be transacted at the meeting;
 - (iii) if a Special Resolution is to be proposed, the details of and intention to propose it;
 - (iv) if the meeting is to be held in two or more places, the technology that will be used to facilitate this; and
 - (v) any other information required by the Corporations Act (notwithstanding the application of section 111L of the Corporations Act, if any).
- (b) The accidental omission to give notice of any general meeting to or the non-receipt of notice of a meeting by any person entitled to receive notice will not invalidate the proceedings at or any resolution passed at the meeting.
- (a) Subject to **clause 18(b)**, notice of every general meeting must be given in any manner authorised by this Constitution to:
 - (i) every member;
 - (ii) every Director; and
 - (iii) the auditor for the time being of the Company (if any).

19 Cancellation or Postponement of General Meeting

- (a) The Board may cancel a general meeting of the Company:
 - (i) convened by the Board; or
 - (ii) which has been convened by a Member or Members pursuant to **clause 17.2(c)** upon receipt by the Company of a written notice withdrawing the requisition signed by that Member or those Members.
- (b) The Board may postpone a general meeting or change the venue. No business shall be transacted at any postponed meeting other than the business stated in the notice to members for the original meeting.
- (c) Where any general meeting is cancelled or postponed or the venue for a general meeting is changed:
 - (i) the Board must endeavour to notify in writing each person entitled to receive notice of the meeting of the cancellation, the change of venue or the postponement of the meeting by any means permitted by this Constitution and in the case of the postponement of a meeting, the new place, date and time for the meeting; and
 - (ii) any failure to notify in writing any person entitled to receive notice of the meeting or failure of a person to receive a written notice shall not affect the validity of the cancellation, the change of venue or the postponement of the meeting.

PROCEEDINGS AT GENERAL MEETINGS

20 Quorum

- (a) No business may be transacted at any general meeting unless there is a quorum of members present at all times during the meeting.
- (b) Twenty (20) Voting Members shall constitute a quorum for all general meetings.
- (c) If within fifteen (15) minutes after the time appointed for holding a general meeting a quorum is not present:
 - (i) the meeting, if convened upon the requisition of members, shall be dissolved;
 - (ii) in any other case:
 - (A) it will stand adjourned to such other day time and place as the Board may by notice to the members appoint; and
 - (B) if at such adjourned meeting a quorum is not present within thirty (30) minutes after the time appointed for the holding of the meeting, the meeting shall be dissolved.

21 Chairperson

- (a) The President of the Board shall preside as Chairperson at each general meeting.
- (b) Where a general meeting is held and:
 - (i) there is no President; or

- (ii) the President is not present within fifteen (15) minutes after the time appointed for the holding of the meeting or, if present, is unwilling to act as Chairperson of the meeting,

then the following person will be Chairperson in the order of availability set out below:
 - (iii) Vice President;
 - (iv) another Director chosen by the majority of Directors present at the meeting; or
 - (v) a Voting Member chosen by a majority of the members present.
- (c) The rulings of the Chairperson of a general meeting on all matters relating to the order of business, procedure and conduct of the meeting shall be final and no motion of dissent from such rulings shall be accepted.

22 Adjournments

- (a) The Chairperson of a general meeting at which a quorum is present:
 - (i) may adjourn a meeting with the consent of the meeting; and
 - (ii) must adjourn the meeting if the meeting so directs;

to a time and place as determined.
- (b) No business may be transacted at any adjourned general meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) A resolution passed at a meeting resumed after an adjournment is passed on the day it was passed.
- (d) It is not necessary to give any notice of an adjournment of a general meeting or of the business to be transacted at the adjourned meeting except if the meeting is adjourned for thirty (30) days or more, in which case notice of the adjourned meeting must be given as in the case of an original meeting.

23 Determination of Questions

- (a) At any general meeting a resolution to be considered at the meeting shall be decided on a show of hands unless a poll is demanded by:
 - (i) the Chairperson of the meeting; or
 - (ii) at least two (2) members present.
- (b) Before a vote on a resolution is taken, the Chairperson must inform the meeting whether any proxy votes have been received and how the proxy votes are to be cast.
- (c) A declaration by the Chairperson of the result of a vote on a resolution by a show of hands and an entry to that effect in the minutes which has been signed by the Chairperson of the meeting or the next succeeding meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (d) At any general meeting, a member who is entitled to attend and vote at that meeting is entitled to a direct vote. A 'direct vote' includes a vote delivered to the

Company by post, fax or other electronic means approved by the Board. The Board may specify the form, method and timing of giving a direct vote at a meeting in order for the vote to be valid.

24 Polls

- (a) A poll may be demanded:
 - (i) before a vote on a resolution is taken;
 - (ii) before the voting results on a show of hands are declared; or
 - (iii) immediately after the voting results on a show of hands are declared.
- (b) If a poll is demanded it must be taken in such manner and at such time and place as the Chairperson of the meeting directs subject to **clause 24(e)**.
- (c) The result of the poll shall be taken to be the resolution of the meeting at which the poll was demanded.
- (d) The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded.
- (e) A poll demanded on the election of a Chairperson or any question of adjournment of the meeting must be taken immediately.
- (f) The demand for a poll may be withdrawn.

25 Voting Rights

A Voting Member has one (1) vote, both on a show of hands and a poll.

26 Disqualification

No person other than:

- (a) a Voting Member; or
 - (b) a proxy or attorney of a Voting Member;
- shall be entitled to a vote at a general meeting.

27 Objection to Qualification to Vote

Any challenge as to the qualification of a person to vote at a general meeting or the validity of any vote tendered may only be raised at the meeting and must be determined by the Chairperson whose decision shall be final and conclusive, and a vote allowed by the Chairperson shall be valid for all purposes.

28 Casting Vote

In the case of an equality of votes whether on a show of hands or on a poll, the Chairperson of the meeting at which the show of hands is taken or at which the poll is demanded is entitled to a casting vote.

29 Right of Non-Members to Attend General Meeting

- (a) The Chairperson of a general meeting may invite any person who is not a member to attend and address a meeting.
- (b) Any auditor and any Director of the Company shall be entitled to attend and address a general meeting.

PROXIES

30 Right to Appoint Proxies

- (a) A Voting Member who is entitled to attend and vote at a general meeting of the Company may appoint a person as the Voting Member's proxy to attend and vote for the Voting Member at the meeting.
- (b) If a Voting Member appoints a proxy, the proxy is entitled to vote on a show of hands and on a poll.
- (c) Any Proxy appointed must also be a Voting Member.

31 Appointing a Proxy

31.1 Appointing a Proxy

The instrument appointing a proxy must be in writing signed by the appointor or the appointor's attorney duly authorised in writing or, if the appointor is a corporation, signed by an authorised officer or attorney of the corporation.

31.2 Instrument of Proxy

- (a) The instrument of proxy is valid if it contains the following information, and any additional information required by the Corporations Act (notwithstanding the application of section 111L of the Corporations Act, if any):
 - (i) the name and address of the Voting Member;
 - (ii) the name of the Company;
 - (iii) the proxy's name or the name of the office of the proxy; and
 - (iv) the meeting at which the instrument of proxy may be used.
- (b) An instrument of proxy is only valid for the meeting referenced at **clause 30(a)** and any postponement or adjournment of that meeting.
- (c) An instrument of proxy shall not be treated as invalid merely because it does not specify all of the information required by **clause 31.2(a)**.
- (d) An instrument of proxy may be revoked at any time by notice in writing to the Company.

32 Lodgement of Proxies

- (a) An instrument appointing:
 - (i) a proxy and the power of attorney or other authority (if any) under which it is signed or executed or a certified copy of that power or authority; or

- (ii) an attorney to exercise a Voting Member's voting rights at a general meeting or a certified copy of that power of attorney,

must be lodged at the Office or at such other place as is specified for that purpose in the notice convening the general meeting not less than forty eight (48) hours (or such shorter period as the Board may allow) before the time appointed for the holding of the meeting or adjourned meeting as the case may be at which the person named in the instrument proposes to vote. In default, the instrument of proxy or the power of attorney will not be treated as valid.

- (b) For the purposes of this **clause 32**, the prescribed proxy form in effect from time to time are to be lodged by a Voting Member by email and the proxy shall be regarded as received at the time the recipient receives the email or other electronic transmission by the Company.

33 Validity of Proxies

- (a) A vote exercised pursuant to an instrument of proxy, a power of attorney or other instrument of appointment is valid notwithstanding:
 - (i) the death or unsoundness of mind of the Voting Member;
 - (ii) the bankruptcy of the Voting Member;
 - (iii) the revocation of the instrument of proxy or the power of attorney or any instrument under which the instrument or the power was granted,if the Company has not received at its Office written notice of the death, unsoundness of mind, bankruptcy or revocation at least forty eight (48) hours (or such shorter period as the Board may allow) prior to the time appointed for the holding of the general meeting or adjourned meeting, as the case may be, at which the instrument of proxy or the power of attorney is exercised.
- (b) A proxy who is not entitled to vote on a resolution as a Voting Member may vote as a proxy for another Voting Member who can vote if the appointment specifies the way the proxy is to vote on the resolution and the proxy votes that way.
- (c) Except on a show of hands, a proxy may vote as more than one Voting Member if the proxy holds appointments for those Voting Members which specify the way the proxy is to vote on the resolution and the proxy votes that way.

34 Rights of Proxies and Attorneys

- (a) The instrument appointing a proxy will be taken to confer authority to demand or join in demanding a poll.
- (b) Subject to **clause 34(c)**, unless a Voting Member by the instrument of proxy directs the proxy to vote in a certain manner, the proxy may vote as the proxy thinks fit on any motion or resolution. Otherwise the proxy shall follow the voting instructions contained in the instrument of proxy.
- (c) A proxy will not be revoked by the appointor attending and taking part in any general meeting, but if the appointor votes on a resolution either on a show of hands or on a poll, the person acting as proxy for the appointor shall not be entitled to vote in that capacity in respect of the resolution.

- (d) The Chairperson of a general meeting may require any person acting as a proxy to establish to the satisfaction of the Chairperson that he or she is the person nominated as proxy in the form of proxy lodged under this Constitution. If the person is unable to establish his or her identity, he or she may be excluded from voting either upon a show of hands or upon a poll.

APPOINTMENT AND REMOVAL OF DIRECTORS

35 Composition of Board

35.1 Number of Directors

- (a) The Board of Directors shall consist of not less than eight (8) and not more than ten (10) persons.
- (b) All members of the Board must be members of the Company.

35.2 Composition of Board

Subject to rule 40, the Board shall comprise of:

- (a) an individual director occupying the role of President elected by the members;
- (b) an individual director occupying the role of Vice President elected by members;
- (c) up to four additional individual directors (described as 'At-Large Directors') elected by members; and
- (d) up to six individual directors occupying the roles of Branch Presidents of each branch established under **clause 57** elected by the members of the respective branch.

35.3 Term

- (a) A Director shall hold a particular office pursuant to **clause 35.2** for a term of two (2) years but shall be eligible for reappointment for a further two (2) years.
- (b) After holding office for the maximum term prescribed in **clause 35.3(a)**, a person shall again be eligible for nomination as a Director after an absence from the Board of at least two (2) years.
- (c) The terms of Directors shall be synchronised with the AGM. A Director shall hold office from the conclusion of the AGM at which they were elected until the conclusion of the AGM two (2) years after their election as a Director.
- (d) In the event that the Company cannot attract nominees for directorship to fill vacant positions on the Board, a Director may remain on the Board beyond the maximum terms prescribed in **clause 35.3(a)**.

36 Election of Board

- (a) A ballot system as determined by the Company Secretary shall be conducted of Voting Members every second year to elect members of the Board.
- (b) The Company Secretary will act as the Returning Officer.
- (c) Branch Presidents are to be elected by members allocated to the respective Branch.
- (d) The ballot shall be conducted in the following manner:

- (i) the Returning Officer shall call for nominations for all positions at least three (3) months prior to the AGM;
- (ii) nominations shall be on the form prescribed by the Returning Officer from time to time which may include any electronic format;
- (iii) nomination forms must be received by the date and time specified on the form;
- (iv) a candidate may nominate for more than one position which shall be determined in the following sequence: President, Vice President, At-Large Directors, Branch President. Once elected to a position, the candidate will not be considered for any other position in the sequence;
- (v) should there be more nominations received than the number of positions to be filled, Voting Members will be asked to vote for their preferred candidate;
- (vi) at least two (2) months prior to the AGM, the Returning Officer shall instruct Voting Members on how they may vote for candidates including utilising any electronic format;
- (vii) the closing date for the ballot shall be not less than one (1) month prior to the date of the AGM;
- (viii) the Returning Officer shall appoint two (2) independent scrutineers to review the results of the ballot;
- (ix) the successful candidates will be those who received the highest number of votes for the position or office nominated;
- (x) the result of the ballot shall be placed before the AGM to be endorsed by those present in person or by proxy;
- (xi) in the event that no nominations or insufficient nominations are received for the positions on the Board, the members of the Company present at the AGM in person or by proxy shall be entitled to vote for any number of candidates not exceeding the number of vacancies. In case there shall not be sufficient number of candidates nominated, other confirmed incoming Directors shall fill the remaining vacancy or vacancies; and
- (xii) the Returning Officer will present the final results to the Chairman at the AGM who will declare the results which will be taken as final.

37 General Right to Appoint Directors

The Board may act despite any vacancy however if the number falls below the minimum fixed in accordance with **clause 35.1(a)** the Board may act:

- (a) for the purpose of:
 - (i) increasing the number of Directors to the minimum; or
 - (ii) convening a general meeting; or
 - (b) in emergencies;
- but for no other purpose.

38 Removal of Directors

- (a) A Director may be removed from office by resolution of the members present and entitled to vote at a general meeting of the company convened for that purpose. At the meeting, the Director must be given the opportunity to present his or her case orally or in writing.
- (b) A Director removed under **clause 38(a)** retains office until the dissolution or adjournment of the general meeting at which he or she is removed.

39 Vacation of Office

- (a) Any Director may retire from office on giving written notice to the Company at the Office of his or her intention to retire, and the resignation shall take effect at the time expressed in the notice (provided the time is not earlier than the date of delivery of the written notice to the Company).
- (b) The office of a Director shall become vacant if the Director:
 - dies;
 - ceases to be a Voting Member of the Company;
 - becomes prohibited from being a director of, or managing, a company by reason of any order made under the Corporations Act;
 - has been disqualified by the ACNC, at any time during the preceding twelve (12) months, from being a responsible entity of a registered entity under section 45.20(4) of the ACNC Regulation;
 - becomes of unsound mind or a person whose personal estate is liable to be dealt with in any way under the law relating to mental health;
 - is removed from office by the Company in general meeting;
 - resigns by notice in writing to the Company; or
 - is absent from three (3) consecutive meetings of the Board.

40 Filling of Vacancies on the Board

In the event of a casual vacancy occurring on the Board, the continuing members of the Board may appoint another member of the Company to fill a vacancy until the next AGM, including the appointment of a director to fulfil a certain function, such as President, Vice-President or Branch President.

POWERS AND DUTIES OF DIRECTORS

41 Duties of Directors

If the Company is a Charity:

- (a) each Director is subject to, and must comply at all times with, the duties set out in Governance Standard 5 in section 45.25 of the ACNC Regulation if the Company is legally required to comply with that regulation;
- (b) in accordance with Governance Standard 4 in section 45.20 of the ACNC Regulation, the Board will take reasonable steps to ensure that the Board does not at any time

include a Director who is disqualified from managing a corporation under the Corporations Act or from being a responsible entity under subsection 45.20(4) of the ACNC Regulations.

42 Powers of Directors

- (a) The control, management and conduct of the Company shall be vested in the Board which shall exercise all such powers of the Company expressed in the Corporations Act, the ACNC Act, ACNC Regulations or by this Constitution or required to be exercised in any other manner.
- (b) The Board may make regulations, by-laws and policies consistent with the constitution, which in the opinion of the Board are necessary or desirable for the proper control, administration and management of the company's finances, affairs and property, or are necessary for the convenience, comfort and wellbeing of the members and amend or rescind any regulations, policies and by-laws.
- (c) A regulation, policy or by-law of the company made by the Board may be disallowed by a resolution of the members, however such a resolution cannot invalidate prior acts of the Board which would have been valid if that resolution had not been passed or made.
- (d) A Director is entitled to attend and speak at general meetings
- (e) The Board shall appoint the Chief Executive Officer and determine the salary and terms and conditions of employment.

43 Negotiable Instruments

All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, all requests or arrangements for electronic fund transfers and all receipts for money paid to the Company must be signed, drawn, accepted, endorsed or otherwise executed as the case may be by two (2) people authorised by the Board in delegated authorities including:

- (a) a Director;
- (b) the Company Secretary;
- (c) the Chief Executive Officer of the Company; or
- (d) another staff member of the Company

to sign such instruments.

44 Conferment of Powers

- (a) The Board may from time to time confer upon any Director for the time being or any other person any of the powers exercisable under this Constitution by the Board as it may think fit for such time and to be exercised for such purposes and on such terms and conditions and with such restrictions as it may think expedient.
- (b) Powers conferred under this **clause 44** may be exercised concurrently with the powers of the Board in that regard, and the Board may from time to time withdraw, revoke or vary all or any of such powers.

DIRECTORS' DISCLOSURE OF INTEREST

45 Contracts

- (a) The Company may enter into contracts or arrangements with other companies or entities in which a Director has an interest, provided it does so according to the usual commercial terms and conditions which apply to such contracts or arrangements.
- (b) Any interest of a Director must be dealt with in accordance with the relevant legislation, being either:
 - (i) the Corporations Act; or
 - (ii) the ACNC Act and ACNC Regulations,which shall include disclosing an interest and having the Company Secretary record all declarations in the minutes of the relevant meeting.
- (c) Subject to **clause 45(b)**, a Director who has an interest in a contract or arrangement made by the Company and has disclosed this interest to the Board may:
 - (i) not be present while the matter is being considered at a meeting;
 - (ii) not vote on the matter;
 - (iii) still be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement;
 - (iv) not sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement; and
 - (v) not vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.
- (d) A Director's failure to make disclosure under this **clause 45** does not render void or voidable a contract or arrangement in which the Director has a direct or indirect interest.
- (e) A general notice given to the Board by a Director that the Director is an officer, a member of, or otherwise interested in any specified corporation or firm stating the nature and the extent of the Director's interest in the corporation or firm shall, in relation to any matter involving the Company and that corporation or firm after the giving of the notice, be a sufficient disclosure of the Director's interest, provided that the extent of the interest is no greater at the time of first consideration of the relevant matter by the Board than was stated in the notice.

PROCEEDINGS OF DIRECTORS

46 Meetings of Directors

- (a) The Board may meet as it thinks fit, provided the Board meets at least three (3) times each calendar year.

- (b) A Director may at any time, and the Company Secretary upon the request of a Director shall, convene a meeting of the Board by giving at least forty eight (48) hours' notice of the meeting to all Directors, provided that the Director or Company Secretary must have used their best endeavours to ensure that the notice was properly served and received.
- (c) Notice of a meeting of the Board need not be in writing.
- (d) Subject to **clause 46(e)**, a Board meeting may be convened or held using any technological means.
- (e) The particular technology used to convene or hold a Board meeting, pursuant to **clause 46(d)**, must be available and accessible to all Directors who wish to attend the Board meeting.
- (f) All resolutions of the Directors passed at a meeting of the Board where a quorum is present but where notice of the meeting has not been given as required to each Director, or any act carried out pursuant to such resolution, shall, provided each Director to whom notice was not given subsequently agrees to waive same, be as valid as if notice of the meeting had been duly given to all Directors. Attendance by a Director at a meeting of Directors waives any objection which that Director may have to a failure to give notice of the meeting

47 Quorum

- (a) The quorum necessary for a meeting of the Board is more than 50%.
- (b) A quorum must be present at all times during the meeting.
- (c) A Director who is disqualified from voting on a matter pursuant to **clause 45** shall be counted in the quorum despite that disqualification.

48 Chairperson

- (a) The President of the Board shall be the Chairperson.
- (b) The Chairperson shall, if present, preside as Chairperson of every meeting of the Board.
- (c) If a meeting of Board is held and the Chairperson is:
 - (i) not present within fifteen (15) minutes after the time appointed for the holding of the meeting; or
 - (ii) if present, does not wish to chair the meeting,
then the Vice President shall preside as Chairperson. If the Vice President is:
 - (iii) not present within fifteen (15) minutes after the time appointed for the holding of the meeting; or
 - (iv) if present, does not wish to chair the meeting,
then the other Directors present must elect one of their number to be Chairperson of the meeting.

49 Voting

- (a) A resolution of the Board must be passed by a majority of votes of the Directors present at the meeting who vote on the resolution. A resolution passed by a majority of the votes cast by the Directors will for all purposes be taken to be a determination of the Board.
- (b) Each Director shall have one (1) vote.
- (c) In case of an equality of votes at a meeting of the Board, the Chairperson has a casting vote in addition to a deliberative vote.

50 Resolutions by Directors

- (a) The Board may pass a resolution without a Board meeting being held if a majority of the total number of Directors vote in favour of the resolution.
- (b) An email transmission which is received by the Company and which purports to have been sent by a Director shall for the purposes of this **clause 50** be taken to be in writing and signed by that Director at the time of the receipt of the email transmission by the Company.
- (c) A vote made by a Director using an online voting platform operated or commissioned by the Company shall for the purposes of this **clause 50** be taken to be in writing and signed by that Director at the time the vote was received by the online voting platform.

51 Committee of Directors

- (a) The Board may form and delegate any of its powers to a Committee consisting of such Directors and other persons as it thinks fit and may from time to time revoke such delegation.
- (b) The Board has the power to require any Committee to submit all decisions for ratification by the Board.
- (c) A Committee must, in exercising the powers delegated to it, conform to any directions and restrictions that may be imposed by the Board. A power so exercised shall be taken to be exercised by the Board.
- (d) The meetings and proceedings of any Committee consisting of more than one person will be governed by the provisions for regulating the meetings and proceedings of the Board contained in this Constitution.
- (e) A minute of all the proceedings and decisions of every Committee shall be made and entered in the Minute Register in the same manner in all respects as minutes of proceedings of the Board as required by the Corporations Act (notwithstanding the application of section 111L of the Corporations Act, if any) and this Constitution. Committee minutes shall be tabled at the next Board meeting.

52 Appointment of advisory group

- (a) The directors may establish an advisory group. The directors may appoint and remove members of the advisory group and terminate an advisory group at any time.
- (b) The functions of the advisory group will be decided by the directors.

- (c) The directors may specify:
 - (i) the manner in which proceedings of an advisory group are conducted;
 - (ii) the matters which the advisory group must consider in carrying out its functions; and
 - (iii) any other matters concerning the advisory group or its functions that the directors decide.
- (d) For the avoidance of doubt, an advisory group established under **clause 52(a)** will not be delegated with any power of the board.

53 Validation of Acts of Directors

All acts done:

- (a) at any meeting of the Board; or
- (b) by any person acting as a Director,

shall, even if it is discovered afterwards that there was a defect in the appointment or continuance in office of any such Director or person or that they or any of them were disqualified or were not entitled to vote, be as valid as if every such person had been duly appointed or had continued in office and was duly qualified to be a Director and had been entitled to vote.

MINUTES

54 Minutes

- (a) The Board must cause minutes to be kept in such a manner as is required by the Corporations Act (notwithstanding the application of section 111L of the Corporations Act, if any) for the purposes of recording:
 - (i) the names of the Directors present at each meeting of the Board and those who have requested an apology be recorded;
 - (ii) all orders, resolutions and proceedings of general meetings and of meetings of the Board and of Committees; and
 - (iii) such matters as are required by the Corporations Act or the ACNC Act or the ACNC Regulation to be recorded in the record books of the Company including without limitation all declarations made or notices given by any Director of his or her interest in any contract or proposed contract or the holding of any office or property whereby any conflict of duty or interest may arise.
- (b) Such minutes shall be adopted by the Board at its next meeting and shall be evidence without any further proof that the matters and decisions recorded are a true record of the meeting duly convened and held.

COMPANY SECRETARY

55 Appointment and Tenure

- (a) There must be at least one Company Secretary appointed by the Board for a term and on conditions determined by the Board.
- (b) The Company Secretary may also be a director.
- (c) The Board may remove any Company Secretary so appointed.

BYLAWS

56 Bylaws

- (a) The Board may from time to time make such bylaws as are in its opinion necessary and desirable for the proper control, administration and management of the Company's affairs, operations, finances, interests, effects and property, and to amend and repeal those bylaws from time to time.
- (b) A bylaw must be subject to this Constitution and must not be inconsistent with any provision in this Constitution.
- (c) When in force, a bylaw is binding on all members and has the same effect as this Constitution.
- (d) The Board will provide members with reasonable notice of any proposed new bylaws or changes to bylaws regarding the eligibility requirements for, and benefits of, membership categories prior to the changes being adopted.

BRANCHES and DIRECTORATES

57 Branches

- (a) The Board shall determine the area, name, composition, criteria for members to be allocated to a branch, functions of, and manner of operations for each branch.

58 Directorates

- (a) The Board may establish other entities from time to time to represent, inform, lead and advocate on behalf of other sectors within Queensland.
- (b) The Board may establish bylaws to govern the operations of those entities.

EXECUTION OF DOCUMENTS

59 Execution of Documents

- (a) Without limiting the manner in which the Company may execute any contract, including as permitted under section 127 of the Corporations Act, the Company may execute any agreement, deed or other document by delegated authority to any Director and/or Company Secretary.
- (b) Nothing in this Constitution requires the Company to execute any agreement, deed or other document under common seal for the same to be effectively executed by the Company.

ACCOUNTS AND INSPECTION OF RECORDS

60 Accounts and Inspection

The Board shall:

- (a) cause proper financial records to be kept and must, if required by the Corporations Act, the ACNC Act or the ACNC Regulations, prepare and distribute copies of the financial reports of the Company and a Director's report;
- (b) where required by the Corporations Act, the ACNC Act or the ACNC Regulations, cause the financial records to be audited or reviewed by a properly qualified auditor or other entity authorised by the Corporations Act, the ACNC Act or the ACNC Regulations (as the case may be); and
- (c) from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounting and other records of the Company or any of them will be open to the inspection of Members.

NOTICES

61 Service of Notices

- (a) A notice may be given by the Company to any member by:
 - (i) sending it electronically or digitally to the address supplied by the member to the Company for the giving of notices;
 - (ii) serving it on the member personally;
 - (iii) sending it by post to a physical address if provided by the member for the Register which is also nominated for receiving notices.
- (b) Any member who has not provided his or her place of address for inclusion in the Register as the place at which notices may be given to the member shall not be entitled to receive any notice.
- (c) Where a notice is sent by post, service of the notice shall be taken to be effected by properly addressing, prepaying and posting a letter containing the notice and shall be deemed to have been effected on the second day after the date of

posting. Service of a notice to a member outside Australia shall be deemed to have been made in the ordinary course of the post.

- (d) Where a notice is sent by electronic means, service of the notice shall be taken to be effected by properly addressing and sending the notice and in such case shall be taken to have been effected on the day it is sent or the next business day if the notice is sent on a weekend or public holiday.
- (e) Evidence of the transmission of notice to the recorded address of the member shall be conclusive evidence of service.

WINDING UP

62 Winding Up

62.1 Limited liability on winding up

- (a) If the company is wound up while a person is a member, or within one year after the person ceases to be a member, the person must contribute the Guarantee amount to the assets of the Company for the:
 - (i) payment of the debts and liabilities of the company contracted before the person ceased to be a member; and
 - (ii) costs of winding up.
- (b) Each member of the Company agrees the Guarantee amount under **clause 62.1(a)** is \$10.

62.2 Distribution of surplus on winding up

- (a) Where property remains after the winding up or dissolution of the company and satisfaction of all its debts and liabilities, it must not be distributed among members, unless the member is a charitable fund, authority or institution described in **clauses 62.2(b) or 62.2(c)**.
- (b) If the company is wound up, subject to **clause 62.2(c)** any surplus assets must be given to another charitable fund, authority or institution:
 - (i) with objects similar to the objects of the company; and
 - (ii) whose constitution prohibits the distribution of its income and property among its members to an extent at least as great as is imposed on the company under this constitution.
- (c) If the company is endorsed as a deductible gift recipient then:
 - (i) upon the revocation of its endorsement as a deductible gift recipient; or
 - (ii) upon its winding up,
any surplus assets must be transferred to another charitable fund, authority or institution:
 - (iii) with objects similar to the objects of the company;
 - (iv) whose constitution prohibits the distribution of its income and property among its members to an extent at least as great as is imposed on the company under this constitution; and

- (v) to which income tax deductible gifts can be made.
- (d) The charitable fund, authority or institution to receive property under **clauses 62.2(b)** or **62.2(c)** must be decided by the directors at or before the time of the winding up or dissolution. If the directors do not wish to decide, or do not decide, the members by ordinary resolution must decide. If the members do not decide, the decision must be referred to the Supreme Court of the state or territory in which the company's registered office is located.

INDEMNITY

63 Indemnity

To the extent permitted by law every Officer (and former Officer) of the Company shall be indemnified out of the funds of the Company against all costs, expenses and liabilities incurred as such an Officer or employee (or former Officer or employee). However, no such Officer (or former Officer) shall be indemnified out of the funds of the Company under this clause unless:

- (a) it is in respect of a liability to another person (other than the Company or a related body corporate to the Company) where the liability to the other person does not arise out of conduct involving a lack of good faith; or
- (b) it is in respect of a liability for costs and expenses incurred:
 - (i) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the Officer (or former Officer) or in which the Officer (or former Officer) is acquitted; or
 - (ii) in connection with an application, in relation to such proceedings, in which the court grants relief to the Officer (or former Officer) under the Corporations Act.

64 Payment of Indemnity Policy Premium

- (a) To the extent permitted by law, the Company may at the discretion of the Board enter into and/or pay a premium in respect of a policy of insurance insuring an Officer (or former Officer) of the Company against any liability incurred by such person in that capacity (whether in respect of acts or omissions prior to or after the date of the issue of the policy or both) except for:
 - (i) a liability arising out of conduct involving a wilful breach of duty in relation to the Company; or
 - (ii) a contravention of sections 182 or 183 of the Corporations Act (or similar provisions in the ACNC Regulation).
- (b) The Board shall have the discretion to approve the terms and conditions of any such policy of insurance.
- (c) Where an Officer (or former Officer) has the benefit of an indemnity pursuant to an insurance policy in respect of his or her actions or omissions, then the Company shall not be required to indemnify the Officer under **clause 63** except to the extent that the indemnity affected by the insurance policy does not fully cover the person's liability.

65 Indemnity to Continue

The indemnity granted by the Company contained in **clauses 63** and **64** shall continue in full force and effect notwithstanding the deletion or modification of that clause, in respect of acts and omissions occurring prior to the date of the deletion or modification.

CHANGES TO CONSTITUTION

66 Changes to Constitution

This Constitution may be amended or repealed by a Special Resolution passed by a 75% majority of Voting Members present in person or by proxy at a general meeting.