

NSW Constitution

Local Government Professionals Australia,
NSW

ACN 000 007 205



Date: 01 September 2014

Shaping the future of local government

Constitution

1. Introduction

1.1 Name of the company

- (a) The name of the company is Local Government Professionals Australia, NSW.
- (b) Use of the name Local Government Professionals Australia, NSW (or LG Professionals, NSW) by the company is subject to the consent of Local Government Managers Australia (LGMA), which consent may be withdrawn upon sixty (60) days written notice given to the company by LGMA.
- (c) If LGMA withdraws its consent for the company to use the name Local Government Professionals Australia, NSW, the company shall call a general meeting to pass a special resolution for the change of its name to a name that does not include either "Local Government Managers Australia:" or "LGMA" or any other words or letters or combinations thereof which might reasonably indicate a connection with the LGMA.
- (d) Notwithstanding anything contained in this constitution, clauses 1.1(b), (c) and (d) may not be rescinded or amended without the written consent of LGMA so long as it exists and the name of the company includes "Local Government Managers Australia" or "LGMA".

1.2 Legal capacity and powers of the company

Subject to the Act and this constitution, the company has the legal capacity, and the rights, powers and privileges of a natural person.

1.3 Limited liability

The liability of the members is limited.

2. Definitions and Interpretation

2.1 Definitions

In this constitution, unless the context requires otherwise:

Act means the *Corporations Act 2001 (Cth)* as modified from time to time;

Auditor means an auditor appointed in accordance with clause 23;

Board means the board of directors of the company;

Business Day means a day on which banks are open for business in Sydney, excluding a Saturday, Sunday or a public holiday;

By-laws means any by-laws made in accordance with clause 16;

CEO means the person who holds the position of Chief Executive Officer;

Code of Conduct means the code of conduct as determined by the board from time to time – the present form of which is annexed and marked “A”;

Committee means any branches, special interest groups and other committees or groups determined by the board from time to time;

Company means Local Government Professionals Australia, NSW ACN 000 007 205;

Constitution means this constitution, as altered or added to from time to time and any reference to a clause by number, is a reference to the clause of that number in this constitution;

Corporate Member has the meaning given in clause 6.1(c);

Director means a director of the company;

Executive Officers means the executive officers of the company referred to in clause 13.4;

Financial Year means each twelve (12) month period commencing on 1 July and ending on 30 June in the next calendar year;

Industry means the local government industry and services provided by local government;

LGMA means Local Government Managers Australia ACN 004 221 818;

Member means an entity that has become a member of the company pursuant to clause 6;

Membership Policy means the membership policy annexed to this constitution and marked “B” which may be varied by the company in accordance with the provisions of clause 6.1 of this constitution;

Ordinary Member of the Board means a member of the board who is not an executive officer;

Office means the registered office of the company;

Officer has the meaning given to that term in section 9 of the Act;

President means the person who holds the office of president of the board under this constitution;

Profession means the profession of local government management;

Register of Members means the register of members maintained in accordance with clause 10;

Representative means a natural person nominated by a member that is a body corporate in accordance with clause 7(a);

Secretary means the secretary of the company appointed in accordance with clause 17;

Special resolution has the meaning given in the Act;

Year means calendar year;

Vice-President means the person who holds the position of vice-president of the board under this constitution.

2.2 Interpretation

In this constitution, unless the contrary intention appears:

- (a) A reference to:
 - (i) any statute, ordinance, code or other law includes regulations and other statutory instruments under any of them and consolidations, amendments, re-enactments or a replacement of any of them by any government body;
 - (ii) any officer of the company includes any person acting for the time being as such an officer;
 - (iii) writing includes any mode of representing or reproducing words in a tangible or visible form, and includes facsimile transmission or email;
- (b) Words importing:
 - (i) the singular include the plural and vice versa;
 - (ii) a gender includes all other genders;
 - (iii) natural persons include partnerships, associations and corporations;
- (c) Headings do not affect the construction of this constitution;
- (d) If a word or phrase is defined cognate words and phrases have corresponding meanings;
- (e) References to notices in this constitution include not only formal notices of meetings but also all documents and other communications from the company to its members but do not include cheques;
- (f) An expression used in a particular part or division of the Act that is given by that part or division a special meaning for the purposes of that or any other part or division has, in any of this constitution that deals with a matter dealt with by the relevant part or division, the same meaning as applies in or in respect of that part or division.
- (g) Including, and other similar words, are not words of limitation; and
- (h) Words and phrases which are given a special meaning by the Act have the same meaning in this Constitution, unless the contrary intention appears.

2.3 Replaceable rules

Each of the provisions of the sections or sub-sections of the Act which would but for this clause 2.3 apply to the company as a replaceable rule within the meaning of the Act are displaced and do not apply to the company except insofar as they are repeated in this constitution.

3. Objects

- (a) The objects for which the company is established are:
- (i) to promote excellence in local government management and in the members' pursuit of a professional, managerial and/or administrative careers in local government;
 - (ii) to promote the development, advancement and improvement of the management of local government;
 - (iii) to promote the development of local government by formulating policies, making public statements, organising or joining in deputations, initiating or promoting legislation and generally to make such representations and tender such advice as may tend to promote the objects of the company;
 - (iv) to negotiate and arrange with other similar bodies for the reciprocal recognition of the status of members and to communicate with similar bodies and members of the profession or the industry for the purpose of obtaining information on all matters beneficial or interesting to members;
 - (v) to promote ethical practice and high standards of professional behaviour to be observed by all members;
 - (vi) to communicate to members information on all matters affecting the profession and to print, publish, issue and circulate such papers, periodicals, books, circulars, leaflets and other literature as may seem conducive to any of the objects of the company;
 - (vii) to promote recognition of the company as an authority on matters relating to local government management in New South Wales; and
 - (viii) to do all things necessary in order to promote, encourage and assist the wellbeing of members through professional development, membership services and related activities.
- (b) The company may do all such things as are incidental or conducive to the attainment of the objects and the exercise of the powers of the company. Even though section 124(1) of the Act may prescribe additional purposes and powers, the company may only act in furtherance of the objects described in clause 3.

4. Application of Income and Property

- (a) The income and property of the company whencesoever derived shall be applied solely towards the promotion of the objects of the company as set forth in this constitution and no portion thereof shall be paid or transferred directly or indirectly by way of dividend bonus or otherwise howsoever by way of profit to a member provided that nothing herein contained shall prevent the payment in good faith of:
- (i) remuneration to any officers or servants of the company or to any member in return for any services actually rendered to the company nor for goods supplied in the ordinary and usual course of business;
 - (ii) the payment of interest at a rate not exceeding interest at the rate for the time being charged by bankers in Sydney for overdrawn accounts on money lent; or
 - (iii) reasonable and proper rent for premises demised, let or licensed by any member to the company.
- (b) For so long as the company is permitted by law or licence (“ASIC Licence”) to omit the word “Limited” from its name, the company must not:
- (i) breach a condition of the ASIC Licence;
 - (ii) pursue objects which would have prevented it being granted the ASIC Licence;
 - (iii) apply its income or property to promote objects which would have prevented it being granted the ASIC Licence; or
 - (iv) modify its constitution to allow it to do anything which it is required not to do under this clause or clause 5.

5. Winding-up

- (a) Each member undertakes to contribute to the assets of the company in the event of it being wound up while the member is a member or within one (1) year after the member ceases to be a member for:
- (i) payment of the debts and liabilities of the company (contracted before the member ceased to be a member); and
 - (ii) the costs and charges of such winding up, such amount as may be required but not exceeding \$100.
- (b) If upon the winding up or dissolution of the company there remains after satisfaction of all its debts and liabilities any property or assets, the property or assets must be given or transferred to the members or other institution or institutions having objects similar to the objects of the company. Such institution or institutions will be determined by the members at or before the time of dissolution or in default of such determination by such Judge of the Supreme Court of New South Wales as may have or acquire jurisdiction in the matter.

6. Membership

6.1 Eligibility for membership

- (a) Admission to membership is at the discretion of the board.
- (b) Any person who is employed or engaged directly or on an employment contract in local government or who has been employed in local government for a minimum of twelve (12) months under the same terms in accordance with the membership policy is eligible to apply to become a member.
- (c) Any organisation including local government authorities in New South Wales or other levels of government or government related commercial organisations are eligible to apply to become a corporate member.
- (d) The board may by resolution at any time in accordance with the membership policy:
 - (i) create new categories of membership including categories of members who are not entitled to vote at general meetings and not entitled to stand for election for the position of member of the board;
 - (ii) establish different classes or membership; and
 - (iii) prescribe the qualifications required to become a member in a particular category or class and the rights, obligations and privileges of a members of a class in the membership policy from time to time.
- (e) An application for membership, or for a change in membership category, shall be in accordance with this constitution and must be:
 - (i) in writing in the form decided by the board; and
 - (ii) signed by the applicant.

6.2 No transfer of membership

A right, privilege or obligation of a member by reason of membership of the company:

- (a) Cannot be transferred or transmitted to another person; and
- (b) Terminates upon the cessation of the membership.

6.3 General

- (a) A certificate of membership in the form prescribed by the board shall be issued to all members by the board.
- (b) The board may assign to membership of a specified class or category, such post-nominals as it from time to time determines.
- (c) Members are subject to the Code of Conduct.

7. Representatives

- (a) Subject to clause 7(c), a member who is a body corporate (corporate member) may, by notice in writing to the company, appoint a person or persons to act as its representative, and such person may represent that member at general meetings of the company.
- (b) A person must not be appointed as representative of a corporate member unless that person is a voting member of the corporate member.
- (c) A representative may not be a director of the company.
- (d) A corporate member is entitled to appoint one representative to attend all general meetings of the company and may appoint an alternate representative in accordance with clause 7(a) to attend if the representative is unable to attend a general meeting. A notice appointing an alternative representative must be given to the company at least twenty four (24) hours before the general meeting at which the alternative representative is to attend.
- (e) A duly appointed representative will have the power to speak at general meetings of the company for the relevant member but no right to vote for the corporate member.

8. Cessation of Membership

8.1 Resignation or death of a member

- (a) A member ceases to be a member if they:
 - (i) resign their membership by giving a written notice of resignation to the CEO; or
 - (ii) die.
- (b) Resignation under clause 8.1(a) (i) takes effect on:
 - (i) the day and at the time the notice is received by the CEO; or
 - (ii) if a later day is stated in the notice, the later day.
- (c) Upon resignation, the member's name shall be removed from the register of members.

8.2 Removal and suspension of a member

- (a) The board may terminate a member's membership:
 - (i) if the member is convicted of an indictable offence;
 - (ii) if the member does not comply with any of the provisions of this constitution;
 - (iii) if the member has unreasonably refused or neglected to comply with LG Professionals, NSW's Code of Conduct; or
 - (iv) as further set out in the membership policy.

- (a) The board may suspend a member from all privileges of membership (including but not limited to attendance or voting at any meeting of members, the board, or any committee (as may be relevant)) if the member:
 - (i) is the subject of a legal investigation, including any criminal investigation, with respect of their operation as a local government professional during the period of that investigation; or
 - (ii) is subject to a complaint regarding their behaviour or professionalism at an LG Professionals, NSW event or programme or as an executive of an LG Professionals, NSW Member Network Committee during the period that the complaint is being investigated up to the time a decision is made regarding that complaint.
- (b) Before the board terminates a member's membership, it must give the member not less than fourteen (14) days' notice of the proposed termination of membership and a reasonable opportunity to show why the membership should not be terminated.
- (c) If, after considering any representations made by the member clause 8.2(b), the board decides to terminate the membership, the CEO must give the member a written notice of the decision.
- (d) The termination of any membership is without prejudice to the right of the board to recover from the member all arrears of fees and any certificates of membership.
- (e) Any member whose membership is terminated under this clause 8.2 is not prevented from re-applying for membership, but the board can require that all prior fees outstanding to the company be paid before approving the membership application.
- (f) A person whose application for membership has been rejected, or whose membership has been terminated, may give the CEO written notice of their intention to appeal against the decision and the following provisions will apply:
 - (i) a notice of intention to appeal must be given to the CEO within one (1) month after the person receives written notice of the decision;
 - (ii) if the CEO receives a notice of intention to appeal, the CEO must, within three (3) months after the day of receipt, call a board meeting to decide the appeal;
 - (iii) at the meeting, the applicant must be given a reasonable opportunity to show why the application should not be rejected or the membership should not be terminated either in writing or in person;
 - (iv) the board members who rejected the application or terminated the membership must be given an opportunity to show why the application should be rejected or the membership should be terminated; and
 - (v) the appeal must be decided by a resolution of the Board present at the meeting.

- (g) If a person whose application has been rejected does not appeal against the decision within one (1) month after receiving written notice of the decision, or the person appeals but the appeal is unsuccessful, the CEO must, as soon as practicable, refund the application fee paid by the person.

9. Fees and Subscriptions

- (a) The board shall set the fees payable by applicants for admission to membership of the company and the annual subscription fees payable by all categories of members and as set out in the membership policy.
- (b) The board may suspend or remit the whole or any part of the fees and subscriptions referred to in clause 9(a) in respect of any member.
- (c) The annual subscription shall be payable in advance by each member on the first day of July in each year.

10. Register of Members

The secretary must keep and maintain a register of members in which will be entered the full name, address, telephone, email and the date of entry of the name of each member, together with the full name and date of appointment of each representative.

11. General Meetings

11.1 Annual general meeting

- (a) The company must hold an Annual General Meeting (AGM) in accordance with the Act.
- (b) Without limiting clause 11.1(a), the company shall in each financial year convene an AGM of members.
- (c) The AGM shall be held, on such day at such time and at such place as the board determines otherwise
- (d) The notice of each AGM must make it clear that the meeting being convened is the AGM.
- (e) The ordinary business of the AGM shall be:
 - (i) to confirm the minutes of the preceding AGM and of any general meeting held since that meeting;
 - (ii) to receive from the board reports upon the transactions of the company during the last preceding financial year;
 - (iii) to receive and consider the financial statements submitted by the company in accordance with the Act; and
 - (iv) to appoint the auditor.
- (f) The AGM may transact special business of which notice is given in accordance with this constitution.

- (g) The AGM shall be in addition to any other general meetings that may be held in the same year.

11.2 Convening a general meeting

The CEO shall, not less than twenty-one (21) days before the date fixed for holding a general meeting of the company, notify the members in the manner provided in this constitution, of the general meeting in accordance with the notice requirements set out in this constitution.

11.3 Special general meetings

- (a) All general meetings other than the Annual General Meeting shall be called special general meetings.
- (b) The CEO shall convene a special general meeting:
 - (i) when directed to do so by the board;
 - (ii) on the requisition in writing signed by members of the board representing not less than one-third of the total number of members of the board from time to time; or
 - (iii) on receipt of a request from the members made in accordance with Section 249D of the Act.
- (c) The request for a special general meeting by members under clause 11.3 (b) (iii) shall be in writing, state any resolutions to be proposed at the meeting, be signed by the members making the request and be given to the Company.
- (d) Members with more than 50% of the votes of all of the members who make a request to call a general meeting under section 249D of the Act may call and arrange to hold a general meeting if the CEO does not do so within twenty-one (21) days after the request is given to the company in which case section 249E of the Act shall apply.
- (d) Unless clauses 11.3 (b) (iii) or 11.3 0 apply, members with at least 5% of the votes that may be cast at a general meeting of the company (or such greater percentage as may be prescribed pursuant to the Act from time to time) may call, and arrange to hold, a general meeting. The members calling the meeting must pay the expenses of calling and holding the meeting.
- (e) A court may order a meeting of members to be called in accordance with the Act, if it is impracticable to call the meeting in any other way.

11.4 Content of notice of general meetings

A notice of a general meeting must:

- (a) Specify the place, date and time for the meeting;
- (b) State the general nature of the meeting's business; and

- (c) If a special resolution is to be proposed at the meeting, set out an intention to propose the special resolution and state the resolution.

Any resolution passed at a general meeting is not invalidated by the accidental omission to give notice of the meeting to any member or non-receipt of that notice by a member.

11.5 Auditor entitled to notice and other communication

The company must give the auditor:

- (a) Notice of a general meeting in the same way that a member is entitled to receive notice; and
- (b) Any other communication relating to the general meeting that a member is entitled to receive.

11.6 Members' meetings - technology

The company may hold a meeting of its members at two (2) or more venues using any technology that gives the members as a whole a reasonable opportunity to participate.

12. Proceedings at General Meetings

12.1 Quorum

- (a) No item of business shall be transacted at a general meeting unless a quorum of members entitled under this constitution to vote is present during the time when the meeting is considering that item.
- (b) Subject to clause 12.1 (a), to constitute a quorum at any general meeting, the number of members personally present (being members entitled under these rules to vote at a general meeting) shall be double the number of members of the board from time to time, plus one.

12.2 Effect of no quorum

- (a) If a quorum is not present within half an hour after the time appointed for the meeting in the notice:
 - (i) if the meeting was convened on the requisition of members, the meeting must be dissolved; or
 - (ii) in any other case shall stand adjourned to some future date not exceeding twenty-one (21) days thereafter and to such time and place as specified by the chairperson. If at the adjourned meeting the quorum is not present within half an hour after the time appointed for the commencement of the meeting, the members present (being not less than three (3)) shall be a quorum.
- (b) If a meeting is adjourned pursuant to clause 12.2(a) it shall not be necessary to give notice of the adjourned meeting to any member present at the time the adjournment was announced.

12.3 Chairperson of general meeting

- (a) The president, or in his/her absence, the vice-president, shall preside as chairperson at each general meeting of the company.
- (b) If the president and the vice-president are absent from a general meeting, the board shall elect a representative from the board to be chairperson of the general meeting. If no board member is present the members present at the general meeting shall elect one of their number to preside as chairperson at the meeting.

12.4 Adjournment

- (a) The chairperson of the general meeting at which a quorum is present may, with the consent of the meeting, (and shall if so directed by the meeting) adjourn the meeting from time to time and place to place.
- (b) Where a meeting is adjourned for twenty-one (21) days or more, a new notice of the adjourned meeting shall be given in accordance with the requirements of the Act and this constitution.
- (c) It shall not be necessary to give notice of an adjournment or of the business to be transacted at an adjourned meeting if it is held within twenty-one (21) days of the original general meeting.

12.5 Adjourned meetings

- (a) Only unfinished business is to be transacted at a meeting resumed after an adjournment.
- (b) A resolution passed at a meeting resumed after an adjournment is passed on the day it was in fact passed.

12.6 Auditor's right to be heard at meeting of members

- (a) The auditor is entitled to attend and be heard at any general meeting of members.

12.7 Proxies at meetings of members

- (a) A member who is entitled to attend and cast a vote at meetings of members may appoint a proxy to attend and cast a vote at that meeting.
- (b) Any proxy appointed under clause 12.7(a) must be appointed in accordance with Division 6 of Part 2G.2 of the Act and shall have the rights as set out in that Division.
- (c) The instrument appointing a proxy shall be in writing in the form as the board may approve from time to time. The instrument appointing a proxy is deemed to confer authority on the proxy to demand or join in demanding a poll. The appointment of the proxy is valid if it is signed, or otherwise authenticated, by the member making the appointment.

- (d) The proxy form may contain the following information as determined by the board:
 - (i) the member's name and address;
 - (ii) the company's name;
 - (iii) the proxy's name or the name of the office held by the proxy; and
 - (iv) the meetings at which the appointment may be used.
- (e) The appointment of the proxy may be a standing appointment.
- (f) A person appointed as a proxy need not be a member.
- (g) The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a copy certified as a true copy by a person qualified to witness statutory declarations of that power or authority shall be deposited by hand, by mail or by fax or other electronic means at the office of the company not less than twenty-four (24) hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote and in default thereof the instrument of proxy shall not be treated as valid.
- (h) If the proxy is to have an electronic authentication of an appointment then this must include:
 - (i) a method of identifying the member; and
 - (ii) an indication of the member's approval of the information communicated.
- (i) If a member appoints a proxy by e-mail or Internet-based voting:
 - (i) the member must be identified by personal details (for example, the member's name, address and date of birth); and
 - (ii) the member's approval of the information communicated must be communicated by a form of security protection (for example, a unique identifier code).
- (j) A vote given in accordance with the terms of an instrument of proxy or attorney shall be valid despite the previous death or unsoundness of mind of the principal or revocation of the instrument or of the authority under which the instrument was executed, provided that no intimation in writing of such death, unsoundness of mind or revocation has been received by the company at the office before the commencement of the meeting or adjourned meeting at which the instrument is used.
- (k) If a member appoints a proxy to attend and vote for the member at a meeting and the member is present at the meeting for which the proxy was appointed, the proxy's authority to speak and vote for the member at the meeting is suspended while the member is present at the meeting.

12.8 Voting at meetings of members

- (a) Subject to this constitution any member with the right to vote one vote, both on a show of hands and a poll.
- (b) The chair of a meeting has a casting vote and if the chair is also a member, such casting vote shall be in addition to any vote the chair has in his or her capacity as a member.
- (c) Only members who have voting rights and have no outstanding monies due to the company taking into account those on payroll deductions, are entitled to vote at meetings of members, either personally, by proxy or as proxy for another member, or be reckoned in a quorum.
- (d) A member who is of unsound mind or whose person or estate is liable to be dealt with in any way under the law relating to mental health may vote whether on a show of hands or on a poll by his or her trustee or by such other person that has or is responsible for the management of his or her estate and any such trustee or other person may vote by proxy or attorney.

12.9 Objections to right to vote

A challenge to a right to vote at a meeting of members:

- (a) May only be made at the meeting; and
- (b) Must be determined by the chair whose decision is final.

12.10 How voting is carried out

- (a) A resolution put to the vote at a meeting of members must be decided on a show of hands unless a poll is demanded by the chair or by at least five (5) members present in person or by proxy and entitled to vote.
- (b) On a show of hands, a declaration by the chair is conclusive evidence of the result.
- (c) Neither the chair nor the minutes need to state the number or proportion of the votes recorded in favour or against a resolution.

12.11 Matters on which a poll may be demanded

- (a) A poll may be demanded:
 - (i) on any resolution including resolutions concerning the election of the chair of the meeting or the adjournment of the meeting; or
 - (ii) in accordance with section 250L of the Act.
- (b) A demand for a poll may be withdrawn.

- (c) A demand for a poll shall not prevent the continuance of a meeting or the transaction of any business at the meeting other than the question on which the poll has been demanded.

12.12 When and how polls must be taken

- (a) Subject to clause 12.12(b), a poll must be taken when and in the manner the chair directs.
- (b) A poll on the election of a chair or on the question of an adjournment must be taken immediately without adjournment.

12.13 Direct voting

The board may determine that in respect of any general meeting, a member who is entitled to attend 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 (including by internet vote) 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.

13. Appointment and Removal of Directors

13.1 Number of directors

The board shall consist of:

- (a) The executive officers; and
- (b) In relation to ordinary members:
 - (i) eight (8) ordinary members of the board for the period during which the immediate past president is an executive officer in accordance with clause 13.4(a)(iii) or
 - (ii) seven (7) ordinary members of the board for the period during which the immediate past president is not an executive officer in accordance with clause 13.4(c)(iii).

13.2 Term of office

A member of the board shall continue in office until his or her successor is elected or appointed in accordance with this constitution.

13.3 Elections

Elections shall be held on even numbered years for all board positions.

13.4 Executive officers and executive committee

- (a) The executive officers shall be:
 - (i) the president;

- (ii) the vice-president;
 - (iii) the immediate past president for a period of twelve (12) months from the date he/she hands over the presidency; and
 - (iv) after the immediate past president ceases to be an executive officer, a member of the board is appointed to the executive committee by the board.
- (b) The board may:
- (i) establish an executive committee which shall consist of the executive officers and such other persons as the board determines; and
 - (ii) delegate any of the board's powers to the executive committee as the board from time to time determines.
- (c) The executive committee will act in accordance with guidelines determined by the board from time to time.

13.5 Election of ordinary members of board

- (a) Any member whose subscription is not in arrears taking into account recurrent payroll deductions and who is then employed in local government and working for a council or county council may be elected as an ordinary member of the board provided that there has been delivered to the CEO by midday prior to the AGM during an election year, a written nomination signed by two (2) members and also the written consent of such person to act in such office. Nominations are to be announced at the AGM.
- (b) If sufficient nominations are received to fill vacancies on the board the candidates nominated shall be deemed to be elected.
- (c) Where the number of nominations exceeds the number of vacancies to be filled, a ballot shall be held using a proportional representation system of voting in a manner determined by the board from time to time.
- (d) If insufficient nominations are received to fill vacancies on the board, the CEO will call for further nominations and the procedures in clauses 13.5(b) and (c) will apply.

13.6 Election of President

- (a) Any member whose subscription is not in arrears taking into account recurrent payroll deductions and who is then employed in local government and working for a council or county council may be elected as president of the board provided that there has been delivered to the CEO by midday prior to the AGM during an election year, a written nomination, signed by two (2) members and also the written consent of such person to act in such office. Nominations to be announced at the AGM.
- (b) If only one (1) nomination is received for the position of president, then the person nominated shall be deemed to be elected.

- (c) If there are more than one (1) nomination for the position of president then a ballot shall be held using a preferential system of voting in a manner determined by the board from time to time.
- (d) If insufficient nominations are received to fill vacancies on the board, the CEO will call for further nominations and the procedures in clauses 13.6(b) and (c) will apply.

13.7 Election of vice-president

- (a) Any member whose subscription is not in arrears taking into account recurrent payroll deductions and who is then employed in local government and working for a council or county council may be elected as vice-president of the board provided that there has been delivered to the CEO by midday prior to the AGM during an election year, a written nomination, signed by two (2) members and also the written consent of such person to act in such office. Nominations to be announced at the AGM.
- (b) If only one (1) nomination is received for the position of vice-president, then the person nominated shall be deemed to be elected.
- (c) If there are more than one (1) nomination for the position of vice-president then a ballot shall be held using a preferential system of voting in a manner determined by the board from time to time.
- (d) If no nominations are received to fill vacancies on the board, the CEO will call for further nominations and the procedures in clauses 13.7(b) and (c) will apply.

13.8 Ballots

- (a) If a ballot is required for ordinary members of the board, the position of president or the position of vice-president the CEO or a nominee approved by the board shall be the returning officer and the returning officer shall arrange for respective ballot papers to be distributed to all members no later than ten (10) days after the date nominations are due. The ballot shall be conducted by post or other means using technology approved by the board and the ballot shall close at 4.30pm on the fourteenth (14th) day after the ballot papers were posted to members.
- (b) A member shall not be competent to vote at an election for an ordinary member of the board, the position of president or vice-president if:
 - (i) the member's annual subscription has not been paid for the current financial year and is not covered by payroll deductions; or
 - (ii) the member is of a non-voting class created by the board under clause 6.1(b).
- (c) The board shall appoint a returning officer who may be the CEO who shall appoint two or more scrutineers not being candidates for the election, provided that any candidate for any elective office shall have the right to appoint one scrutineer.

13.9 Remuneration

The directors do not receive remuneration except that the company may pay the directors' travelling and other expenses that they properly incur:

- (a) In attending meetings of the directors or any committee of the directors;
- (b) In attending any general meetings of the company; or
- (c) In connection with the business of the company.

13.10 Vacancy on the board

- (a) The continuing members of the board may act notwithstanding any vacancy in its body provided that a quorum is present.
- (b) The office of a director shall be deemed to have been vacated if the director:
 - (i) ceases to be a member;
 - (ii) resigns his or her seat on the board;
 - (iii) has become bankrupt;
 - (iv) is requested to resign by notice in writing given by the CEO pursuant to a resolution:
 - (A) passed by an absolute majority of the members of the board;
 - (v) is of unsound mind;
 - (vi) has been notified to the effect that he/she is twelve (12) months or more in arrears in payment of his or her subscription fee;
 - (vii) has attended less than two (2) consecutive meetings of the board, without the approval of the president; or
 - (viii) has left the employ of local government for a period of not less than six (6) months.
- (c) In the event of a casual vacancy in an office held by one of the executive officers the board may appoint a board member to the vacant office and the member so appointed may continue in office up to and including the conclusion of the annual general meeting next following the date of his or her appointment.
- (d) If there is a casual vacancy in the office of an ordinary member of the board and a ballot was conducted in accordance with clause 13.5(c) for membership of the board at the last board elections, such a vacancy may be filled by the person who received the next highest votes at such elections.

14. Powers and Duties of Directors

14.1 General management power

Subject to the Act, this constitution and any resolution of the company, the directors:

- (a) Will manage the business of the company;

- (b) May exercise all such powers of the company that are not, by the Act or this constitution, required to be exercised by the company in general meeting, provided that:
 - (i) no resolution of the company in general meeting will invalidate any prior act of the directors which would have been valid if such a resolution had not been made; and
 - (ii) any sale or disposal by the directors of the company's core business undertaking will be subject to prior approval by the company in general meeting.
- (c) May pay all expenses incurred in promoting the company;
- (d) Shall have the overall responsibility for the appointment and dismissal of the CEO; and
- (e) Shall determine the functions of the executive officers.

14.2 Attorneys

- (a) The directors may, by power of attorney, appoint any person or persons to be the attorney or attorneys of the company with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the directors), for such period and subject to such conditions as they think fit.
- (b) Any such power of attorney may contain provisions for the protection and convenience of persons dealing with the attorney and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.

14.3 Power to borrow and give security

Subject to the Act:

- (a) The company has the power to borrow with or without security;
- (b) The company has the power to give guarantees with or without security.

14.4 Register of mortgages and charges

The directors must:

- (a) Cause a proper register to be kept in accordance with the Act of all mortgages and charges affecting the property of the company; and
- (b) Comply with the Act in regard to the registration of mortgages and charges.

14.5 Other offices of directors

Subject to the Act, a director may hold any other office or offices under the company (except that of auditor) in conjunction with the office of director and on such terms as to remuneration and otherwise as the directors may approve.

14.6 Director may act in professional capacity

- (a) Subject to the Act and clause 14.6(b), any director (or the director's organisation) may act in a professional capacity for the company and the director (or the director's organisation) is entitled to remuneration for professional services as if the director were not a director.
- (b) A director (or the director's organisation) must not act as the company's auditor.

15. Proceedings of Directors

15.1 Calling and holding directors' meetings

- (a) The board may meet, adjourn and otherwise regulate its meetings as it thinks fit provided that it shall meet at least twice in each year at such place and such times as the board may determine.
- (b) The CEO shall attend any meeting of the board but shall not be entitled to exercise any vote upon any question to be decided by the board.
- (c) Special meetings of the board may be convened by the president, vice-president or by any number of members of the board sufficient to form a quorum.
- (d) Notice shall be given to members of the board of any special meetings specifying the general nature of the business to be transacted and no other business shall be transacted at such a meeting.
- (e) Written notice of each board meeting shall be served on each member of the board by delivering it to him or her by email, facsimile or document exchange or post or other means using technology approved by the board at a reasonable time before the meeting or by sending it by pre-paid post addressed to him or her at his or her usual or last known place of abode at least two (2) business days before the date of the meeting.

15.2 Circulating resolutions

- (a) The directors may pass a resolution without holding a directors' meeting if all the directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Separate identical copies of the document may be distributed for signing by directors and taken together will constitute one and the same document.
- (c) The resolution is passed when the last director signs the document.
- (d) The provisions of this clause are satisfied if the notice of resolution is given electronically and a majority of the directors entitled to vote respond electronically in the affirmative using a method sanctioned by the Electronics Transactions Act 2000 (NSW) or the Electronic Transactions Act 1999 (Cth) as applicable.

15.3 Telephone and other meetings

Without limiting the power of the directors to regulate their meetings as they think fit, a meeting of directors or committee of directors may be held where one or more of the directors is not physically present at the meeting but attend via telephone or other technology, provided that:

- (a) All directors consent to the calling and the holding of the meeting by means of telephone or other form of communication. The consent may be a standing one and a director may only withdraw their consent prior to the subject meeting or meetings;
- (b) All directors participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously by means of the agreed form of communication;
- (c) Notice of the meeting is given to all the directors entitled to notice in accordance with the usual procedures agreed on or laid down from time to time by the directors and such notice does not specify that directors are required to be present in person;
- (d) In the event that a failure in communications prevents clause 16.3(b) from being satisfied by a quorum of directors, then the meeting will be suspended until clause 16.3(b) is satisfied again. If clause 16.3(b) is not satisfied within fifteen (15) minutes from the time the meeting was interrupted, the meeting will be deemed to have terminated; and
- (e) Any meeting held where one or more of the directors is not physically present will be deemed to be held at the location specified in the notice of meeting provided a director is present at that location. If no director is present at the location specified, the meeting will be deemed to be held at the location where the chairperson of the meeting is located.

15.4 Resolutions of the directors

- (a) Subject to this constitution, a resolution of the directors at a directors' meeting must be passed by a majority of the votes of directors present and entitled to vote on the resolution.
- (b) In case of an equality of votes, the chairperson of the meeting, in addition to the chairperson's deliberative vote (if any), has a casting vote.

15.5 Minutes

- (a) The directors must cause minutes to be made of:
 - (i) all appointments of directors and officers;
 - (ii) the names of the directors present at each meeting of the directors;
 - (iii) all orders made by the directors;
 - (iv) all declarations made or notices given by any director (either generally or specifically) of their interest in any contract or proposed contract or of their holding of any office or property whereby any conflict of duty or interest may arise; and

- (v) all resolutions and proceedings of all general meetings and meetings of directors, and retain the minutes in a minute book for a period of at least ten (10) years or such other period as may be required under the Act.
- (b) The minutes of a meeting must be signed by the chairperson of the meeting or the chairperson of the next meeting.
- (c) In the absence of evidence to the contrary, contents of the minute book that is recorded and signed in accordance with this clause 15.5 is evidence of the matters shown in the minute.

15.6 Director's personal interests

- (a) If a director has a material personal interest in a matter that relates to the affairs of the company (other than an interest that does not have to be disclosed under section 191(2) of the Act) the director must, by notice in writing to the board, disclose the nature and extent of the interest and its relation to the affairs of the company and given as soon as practicable after the director becomes aware of their interest in the matter.
- (b) Except as permitted by the Act, at a meeting of the directors at which there is considered any contract or proposed contract or arrangement in which the director has a direct or indirect material personal interest, a director must not:
 - (i) vote on the matter; or
 - (ii) be present while the matter is being considered,
- (c) If notice of the interest is given in accordance with clause 15.6(a) and the matter is voted on in accordance with clause 15.6(b) then:
 - (i) any transactions that relate to the interest may proceed; and
 - (ii) if the disclosure is made before the transaction is entered into:
 - (A) the director may retain benefits under the transaction even though the director has the interest; and
 - (B) the company cannot avoid the transaction merely because of the existence of the interest.
- (d) If the provisions of this clause and the Act are observed by a director with regard to any contract or arrangement in which the director is in any way interested, the fact that the director signs, affixes or witnesses the affixing of a seal to the document evidencing the contract or arrangement does not in any way affect its validity.

15.7 Quorum

- (a) The quorum of the board shall be fifty percent (50%) of the members of the board, at the time, plus one (1).

- (b) No business shall be transacted unless a quorum is present and if within half an hour of the time appointed for the meeting a quorum is not present the meeting shall stand adjourned to a date, time and place as the chairperson may determine and if, at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the meeting shall lapse.
- (c) If the office of a director becomes vacant, the remaining directors may act but, if the total number of remaining directors is not sufficient to constitute a quorum at a meeting of directors, the directors may act only for the purpose of convening a general meeting of the company.

15.8 Chairperson

- (a) The president shall act as chairperson of directors' meetings and the vice-president shall be deputy chairperson.
- (b) Where a meeting of the directors is held and both the president and vice-president decline to act or are not present within fifteen (15) minutes after the time appointed for the holding of the meeting the directors present must elect one of their number to chair the meeting or part of the meeting (as the case may be).

15.9 Immediate past president

If the immediate past president is not a director he or she may attend all board meetings but is not entitled to vote on any matter being considered at such board meetings.

15.10 Delegation to committees

- (a) The directors may delegate any of their powers to a committee or committees consisting of any number of them and such other persons as the directors from time to time think fit.
- (b) A committee must exercise the powers delegated to it in accordance with any directions of the directors. The effect of the committee exercising a power in this way is the same as if it had been exercised by the directors.
- (c) The members of a committee may elect one of their number as chairperson of their meetings.
- (d) Where a meeting of a committee is held and:
 - (i) a chairperson has not already been elected to chair that meeting pursuant to clause 15.10(c); or
 - (ii) the previously elected chairperson is not present within fifteen (15) minutes after the time appointed for the holding of the meeting or is unwilling to act, the members present may elect one of their number to be chairperson of the meeting.
- (e) A committee may meet and adjourn as it thinks fit unless otherwise directed by the directors.

- (f) Questions arising at a meeting of a committee must be determined by a majority of votes of the members present and voting.
- (g) In the case of an equality of votes, the chairperson has a casting vote, in addition to any vote the chairperson has in the chairperson's capacity as a member of the committee (if any).

15.11 Acts of directors valid despite defective appointment

Any act done at any meeting of the directors or of a committee of directors by any person acting as a director is, although it is later discovered that there was some defect in the appointment of any such director or that the director was disqualified, is valid as if the director had been duly appointed and was qualified to be a director or to be a member of the committee.

16. By-Laws

The directors may by resolution make, repeal and alter by-laws not inconsistent with this constitution or any matter within the directors' power to regulate.

17. Secretary

- (a) The company must have a secretary or secretaries. At least one of them must ordinarily reside in Australia.
- (b) The CEO may perform the functions of the secretary of the company.
- (c) The secretary shall be appointed by the board on such terms and conditions (including as to remuneration) as the board thinks fit.
- (d) The secretary holds office on such terms and conditions as the directors determine.

18. Inspection of Records

The directors will, subject to the provisions of the Act, from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounting records of the company or any of them will be open to inspection of the members, and no member will have any right to inspect any account or book or document of the company unless and except as conferred by statute or as authorised by the directors or by a resolution of the company in general meeting.

19. Cheques, Bills, Etc

All cheques, bills of exchange and promissory notes must be signed, drawn, made, accepted or endorsed (as the case may be) for and on behalf of the company in such manner as the directors may from time to time determine.

20. Accounts

- (a) The company must keep such accounting records as correctly record and explain the transactions of the company and the financial position of the company and must keep its accounting records in such a manner as will enable:

- (i) the preparation from time to time of true and fair accounts of the company; and
 - (ii) the accounts of the company to be conveniently and properly audited in accordance with the Act.
- (b) Subject to the Act, a copy of the financial report and other reports referred to in clause 20(b) must be provided to members and other persons entitled to them as required by the Act.
- (c) The financial report of the company when audited and approved or received by a general meeting at which it is presented will be conclusive except as regards any material error discovered in it within three (3) months after its approval or receipt. If any material error is discovered within that three (3) month period, the financial report will be corrected immediately and then it will be conclusive.

21. Audit

The company must appoint an auditor at an AGM and appoint an auditor to fill any vacancy in the office of auditor at each subsequent AGM.

22. Notices

22.1 Notices in writing

- (a) Any notice given by the company to any member must be in writing, legible and in English.
- (b) If the notice is by posting on the company's website, the notice must be displayed prominently and remain on the website until the day following the relevant meeting.

22.2 Service

The company must give a notice to any member by:

- (a) Serving it personally at the member's registered office;
- (b) Sending it by post to the member's address as shown in the register or an alternative address (if any) supplied by the member to the company for the purpose of giving notices;
- (c) Sending it by facsimile to the facsimile number (if any) nominated by the member;
- (d) Sending it by email to the email address (if any) nominated by the member; or
- (e) Posting the notice on the company's website.

22.3 Deemed receipt

A notice is deemed to be duly given or made in the case of:

- (a) Delivery in person, when delivered;

- (b) Delivery by post:
 - (i) in Australia to an Australian address, on the third day after posting; or
 - (ii) in any other case, on the tenth day after posting.
- (c) Delivery by facsimile, on a transmission report being printed by the company's facsimile machine stating that the document has been sent to the member's facsimile number;
- (d) Delivery by email on an email report printed by the company's email delivery device stating the time and date the email was transferred to the member's email address, but if delivery is not made before 4.00pm on a day it will be deemed to be received at 9.00am on the next business day.
- (e) By posting on the company's website but if the notice is posted after 4:00pm on any day, it will be deemed to be posted at 9:00am on the next business day.

23. Confidentiality

- (a) In this clause "information" means all or any part of information contained in or related to a transaction of the company, a board document or a discussion at a meeting of the company and any information or knowledge concerning members.
- (b) Subject to this constitution and to the Act, every person who by reason of his or her office in the company or connection with the company is exposed to, learns of or has access to Information must keep the Information confidential and is not entitled to communicate or divulge the Information to any person without prior written consent of the company.

24. Indemnity

24.1 Scope of indemnity

In addition to any other indemnity provided to an officer of the company in accordance with the Act, and to the extent permitted by the Act:

- (a) Every officer of the company will be indemnified out of the assets of the company against any liability incurred by them in relation to the execution of their office;
- (b) No officer of the company is liable for any loss or damage incurred by the company in relation to the execution of their office;
- (c) Every officer of the company will be indemnified out of the assets of the company against any liability which they incur:
 - (i) in defending any proceedings, whether civil or criminal, in which judgment is given in favour of the officer or in which the officer is acquitted;
 - (ii) in connection with any application, in relation to any such proceedings, in which relief is granted under the Act to the officer by the court; and

- (d) Every officer of the company will be indemnified out of the assets of the company against any liability to another person (other than the company or a related body corporate of the company) where the liability is incurred by the officer in their capacity as an officer of the company, provided that this indemnity will not apply where the liability arises out of conduct involving a lack of good faith.

24.2 Insurance

In addition to the payment of any other insurance premium by the company in accordance with the Act, and to the extent permitted by the Act, the company may pay the premium in respect of a contract insuring an officer of the company against a liability:

- (a) Incurred by the officer of the company in their capacity as officer, provided that the liability does not arise out of conduct involving a wilful breach of duty in relation to the company or a contravention of sections 182 or 183 of the Act; or
- (b) For costs and expenses incurred by that officer of the company in defending proceedings, whatever their outcome.

24.3 Interpretation

In this clause 24, “proceedings” means any proceedings, whether civil or criminal, being proceedings in which it is alleged that the person has done or omitted to do some act in their capacity as an officer of the company (including proceedings alleging that they were guilty of negligence, default, breach of trust or breach of duty in relation to the company).

25. Variation or Amendment of Constitution

This constitution may be varied or amended from time to time by special resolution of the company. A conformed copy of the constitution must be made available to members on the company’s website.