

---

## Constitution of Ausjet Limited:

ACN 166 552 218

---

Corporations Act 2001

A company limited by guarantee

Incorporated in New South Wales

Access Law Group  
Level 1, 147 Crown Street  
WOLLONGONG NSW 2500  
P O Box 337,  
WOLLONGONG NSW 2520  
DX 5176 Wollongong  
Tel: : (02) 4220 7100  
Fax: (02) 42295 2997

---

## Table of Contents

<b>1.</b>	<b>Definitions</b>	<b>1</b>
<b>2.</b>	<b>Interpretation</b>	<b>1</b>
<b>3.</b>	<b>Replaceable Rules</b>	<b>2</b>
<b>4.</b>	<b>Actions authorised under the Act and compliance with the Act</b>	<b>2</b>
<b>5.</b>	<b>Objects</b>	<b>2</b>
<b>6.</b>	<b>Members</b>	<b>3</b>
6.1	General Membership	3
6.2	Classes	3
6.3	Application	3
6.4	Annual Subscription	4
6.5	Resignation of a Member	4
6.6	Misconduct of a Member	4
6.7	Other Grounds for Cessation of Membership	5
6.8	Liability for Annual Membership Fees and other amounts following cessation of membership	5
<b>7.</b>	<b>General Meetings</b>	<b>5</b>
7.1	Power of directors to convene	5
7.2	Annual General Meeting	5
7.3	Notice of general meetings	6
7.4	Business of general meetings	6
7.5	Quorum	6
7.6	If quorum not present	6
7.7	Chairperson of meetings	7
7.8	Adjournments	7
7.9	Voting at general meetings	7
7.10	Procedure for polls	7
7.11	Chairperson's casting vote	8
7.12	Representation and voting of members	8
7.13	Objections to qualification to vote	8
7.14	Number of proxies	8
7.15	Form of proxy	8
7.16	Lodgement of proxies	9
7.17	Validity of proxies	9
7.18	Where proxy is incomplete	9
7.19	Right of secretary and others to attend general meeting	9
<b>8.</b>	<b>Board</b>	<b>10</b>
8.1	Directors	10
8.2	Powers	10
8.3	Retirement of Directors	10
8.4	Appointment and removal	10

8.5	Vacation of office	11
8.6	Appointment of attorneys	11
<b>9.</b>	<b>Proceedings of the Board</b>	<b>11</b>
9.1	Proceedings	11
9.2	Meetings by technology	12
9.3	Quorum at meetings	12
9.4	Vacancy	12
9.5	Chairperson of the Board	12
9.6	Proceedings at meetings	13
9.7	Conflicts of Interests	13
9.8	Material Personal Interest	13
9.9	Alternate directors	14
9.10	Delegation	14
9.11	Written Resolutions	14
9.12	Committees	15
9.13	Defects in appointments	15
<b>10.</b>	<b>Chief Executive Officer</b>	<b>15</b>
10.1	Power to appoint CEO	15
10.2	Remuneration	16
10.3	Delegation of powers to CEO	16
<b>11.</b>	<b>Secretaries and other officers</b>	<b>16</b>
11.1	Secretaries	16
11.2	Other officers	16
<b>12.</b>	<b>Application of income and property</b>	<b>16</b>
12.1	Profits	16
12.2	Payments in good faith	17
12.3	Directors fees and remuneration	17
12.4	Negotiable instruments	17
<b>13.</b>	<b>Limited Liability</b>	<b>17</b>
<b>14.</b>	<b>Extent of liability</b>	<b>18</b>
<b>15.</b>	<b>Notices generally</b>	<b>18</b>
<b>16.</b>	<b>Notices of general meeting</b>	<b>18</b>
<b>17.</b>	<b>Winding Up</b>	<b>19</b>
<b>18.</b>	<b>Indemnity</b>	<b>19</b>
18.1	Indemnity Coverage	19
18.2	Authority to enter into indemnity or insurance	20
18.3	Continuation of benefit	20
<b>19.</b>	<b>Seals and their use</b>	<b>20</b>
<b>20.</b>	<b>Gift Deductibility</b>	<b>21</b>
20.1	Establishment of the Public Fund	21
20.2	Public Fund requirements	22
<b>21.</b>	<b>Inspection of records</b>	<b>22</b>



---

## 1. Definitions

---

The following definitions apply in this Constitution unless the context otherwise requires.

*Act* means the *Corporations Act 2001* and the Corporations Regulations.

*AGM* means the annual general meeting of the company.

*ASIC* means the Australian Securities and Investments Commission.

*Board* means the Directors for the time being of the company.

*Director* means a person appointed or elected to the office of director of the company in accordance with this Constitution and includes any alternate director duly acting as a director.

*Guidelines* means the *Environment Australia Register of Environmental Organisations Guidelines*.

*Member* means any person who is admitted to the general membership of the company and registered as a member of the company.

*Member Present* means, in connection with a meeting, the Member present at the venue or venues for the meeting in person or by proxy, by attorney or, where the Member is a body corporate, by representative.

*Prescribed Rate* means the standard base rate charged by the company's principal banker to corporate customers from time to time for overdraft loans in excess of \$100,000 calculated on a daily basis and a year of 365 days.

*Public Fund* means a fund called [**insert name of fund**] into which tax deductible donations can be made which is established in accordance with subdivision 30E of the *Income Tax Assessment Act 1997* (Cth).

*Seal* means any common seal or duplicate common seal of the company.

*Secretary* means a person appointed by the directors to the office of Secretary of the company.

## 2. Interpretation

---

Headings are for convenience only and do not affect interpretation. The following rules of interpretation apply unless the context requires otherwise.

- (a) A gender includes all genders.
- (b) The singular includes the plural and conversely.
- (c) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a paragraph or sub-paragraph is to a paragraph or sub-paragraph, as the case may be, of the Rule or paragraph, respectively, in which the reference appears.
- (e) A reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments issued under it.

- 
- (f) All expressions in this constitution shall have the same meaning as in the Act unless otherwise stated or defined.
  - (g) Except in so far as a contrary intention appears in this constitution, an expression has, in a provision of this constitution which relates to a particular provision of the Act, the same meaning as in that provision of the Act.
  - (h) A reference to a person or persons includes an organisation as well as to an individual or body corporate.

### **3. Replaceable Rules**

---

The replaceable rules contained in the Act do not apply to the company.

### **4. Actions authorised under the Act and compliance with the Act**

---

Where the Act authorises or permits a company to do any matter or thing if so authorised by its constitution, the company is and will be taken by this Rule to be authorised or permitted to do that matter or thing, despite any other provisions of this constitution.

### **5. Objects**

---

The objects of the company are to provide information and education about environmentally appropriate technology. Specifically:

- (a) Development, overseeing and running of training programs for members.
- (b) Development of a set of nationwide safety codes and standards for the use of High Pressure Water Jetting equipment.
- (c) The provision of services to enhance knowledge and skills within the High Pressure Water Jetting industry.
- (d) To advance the interests of High Pressure Water Jetting industry and associated organisations including Industrial Services, Vacuum Loading and Drain Cleaning Operators.
- (e) To promote the High Pressure Water Jetting industry and associated commercial activity.
- (f) To protect members interests through the formation of public opinion by well planned use of various media.
- (g) To influence Government policy where such policy could adversely affect members activities.
- (h) To provide its members with the most up to date professional services keyed to their requirements.
- (i) To advocate the principle of adequate protection of Australian industries by means of duties, subsidies, bounties and the like.
- (j) To provide members with a range of services tailored to their needs.

---

## 6. Members

---

### 6.1 General Membership

- (a) The company will have at least 30 Members.
- (b) The Members of the company will be those persons admitted to the membership of the company whose names are entered in the company's register of members.
- (c) Members of the company as at 30 June 2013 when the company was registered as an incorporated association under the *Associations Incorporation Act 1987* ( WA) shall be taken to be members of the company until such time as that Member ceases to be a Member in accordance with clause 6.
- (d) Members shall be persons who are interested in furthering the objects of the company.

### 6.2 Classes

Members are divided into the following classes:

- (a) individual;
- (b) supporting organisations comprising contractors, manufacturers and training providing services to the Water Jetting industry;
- (c) suppliers of water jetting equipment to industrial and commercial consumers;
- (d) Emeritus; and
- (e) Honorary.

### 6.3 Application

- (a) Applications for any person to become a Member must be submitted to the Board in writing, in a form prescribed by the Board from time to time, if any.
- (b) Upon receipt of the application for membership, the Board must, no later than at the next meeting of the Board, decide whether or not to approve the application in its absolute discretion. The Board is not required to give any reason for rejecting an application.
- (c) If an application for membership has been accepted, the Secretary (or any Director appointed by the Board for that purpose) must notify the applicant and request payment of the first annual subscription. The notification by the Secretary may be given in the manner set out in Rule 15 as if the notification were a notice to a Member.
- (d) Subject to sub-rule (e), upon payment of the first annual subscription the applicant shall become a Member of the company.
- (e) Should the applicant fail to make payment of the first annual subscription within 30 days after the date on which the applicant was notified that the subscription was payable, the directors may, in their absolute discretion, cancel the acceptance of the applicant for membership in the company.
- (f) Upon the receipt of the first annual subscription by the company under this Rule, the applicant must immediately be registered in the company's register of Members.

---

#### 6.4 Annual Subscription

- (a) The annual subscription for each class of members is as follows (see Web):
  - (i) Individual - \$[\*];
  - (ii) Supporting Organisation - \$[\*];
  - (iii) Emeritus - \$[\*],or as prescribed by the company in general meetings from time to time.
- (b) The annual subscription period shall be calculated from 1 July in each year, and annual subscriptions shall be due and payable by 30 June each year in advance.
- (c) The directors may determine that any Member who has been admitted to membership between 1 July and 30 December in any year shall pay only one half of the annual subscription until that Member's next annual subscription falls due.

#### 6.5 Resignation of a Member

- (a) Subject to paragraph (b), a Member may at any time, by giving written notice to the Secretary, resign as a Member of the company. The resignation will be effective from the date of receipt of the written notice by the Secretary, at which time that Member's name must be removed from the register of Members.
- (b) To the extent required by the Guidelines, if:
  - (i) there are only 50 Members and a Member gives proper notice of their resignation in accordance with paragraph (a); or
  - (ii) on the same day some or all of the Members give proper notice of their resignation in accordance with paragraph (a) which would, if effective, mean that less than 50 Members will remain,

the notice or notice will be ineffective and the Member or Members cannot resign until either another person is appointed as a Member of the company to bring the total number of Members to at least 50 or the Public Fund of the company is wound up.

#### 6.6 Misconduct of a Member

- (a) If any Member:
  - (i) is in breach of the provisions of this constitution; or
  - (ii) is guilty of any act or omission which, in the opinion of the Board is unbecoming of a Member or prejudicial to the interest of the company,the Board may expel the Member from the company and remove the Member's name from the register of Members.
- (b) The Board must not expel a Member under paragraph (a) unless:
  - (i) at least 14 days' notice has been given to the Member stating the date, time and place at which the question of expulsion of that Member is to be considered by the Directors, and the nature of the alleged misconduct; and

- (ii) the affected Member is given the opportunity of explaining to the Directors, orally or in writing, why the Member should not be expelled.

#### **6.7 Other Grounds for Cessation of Membership**

A Member's membership of the company shall automatically cease:

- (a) in the case of a Member who is a natural person, on the date that:
  - (i) the Member dies; or
  - (ii) the Member becomes of an unsound mind or a person whose estate is liable to be dealt with in any way under the laws relating to mental health;
- (b) in a case of a Member which is a body corporate, on the date that:
  - (i) a liquidator is appointed in connection with the winding up of the Member; or
  - (ii) an order is made by a court for the winding up or deregistration of the Member.

#### **6.8 Liability for Annual Membership Fees and other amounts following cessation of membership**

A Member who resigns from the company, or whose membership otherwise ceases or terminates in accordance with this constitution, shall remain liable for:

- (a) any sum for which that Member is liable to pay under Rule 14; and
- (b) all annual subscription fees or other amounts owing by the Member to the company which are due and payable as at the date on which the Member ceases to be a Member.

### **7. General Meetings**

---

#### **7.1 Power of directors to convene**

- (a) Any 4 Directors may convene a general meeting whenever those Directors think fit.
- (b) Any 4 Directors convening a general meeting may cancel by notice in writing to all Members any meeting convened by them, except that a meeting convened on the requisition of a Member or Members must not be cancelled without the consent of the relevant Member or Members.
- (c) The Directors may postpone a general meeting or change the place at which it is to be held by notice not later than 72 hours prior to the time of the meeting to all persons to whom the notice of meeting (the first notice) was given. The postponing notice must specify the place, date and time of the meeting. The meeting is taken to be duly convened under the first notice.

#### **7.2 Annual General Meeting**

An AGM must be held by the company in accordance with the Act.

---

### **7.3 Notice of general meetings**

- (a) Each notice convening a general meeting must contain the information required by law, including, but not limited to, specifying the place, date and the time of meeting and the general nature of the business to be conducted at the meeting.
- (b) Notice of a general meeting must be given at least 21 days before the date of the meeting unless the Members consent otherwise in accordance with the Act.
- (c) A notice of general meeting must specify the technology to be utilised in holding the meeting and, if so, specify the form of such technology and the venues at which Members may participate.
- (d) The non-receipt of a notice convening a general meeting by, or the accidental omission to give notice to, any person entitled to receive notice does not invalidate the proceedings at or any resolution passed at the meeting.

### **7.4 Business of general meetings**

- (a) Subject to sub-rule (b) and unless all Members are present as Members Present agree otherwise, the only business to be transacted at a general meeting will be that as set out in the notice of meeting.
- (b) In addition to any business set out in the notice of meeting, the business of an AGM shall, if applicable, be to:
  - (i) confirm the minutes of the preceding AGM;
  - (ii) receive reports from the Board about the activities of the company since the preceding AGM;
  - (iii) to elect office members and ordinary members of the Board; and
  - (iv) to amend the constitution of the company.

### **7.5 Quorum**

- (a) Business must not be transacted at any general meeting unless a quorum of Members is present at the venue or venues of the meeting at the time when the meeting proceeds to business.
- (b) Except as otherwise provided in this Constitution, 7 Members Present constitute a quorum.

### **7.6 If quorum not present**

If a quorum is not present within 30 minutes after the time appointed for the meeting:

- (a) where the meeting is convened on the requisition of Members, the proposed meeting is automatically dissolved; and
- (b) in any other case:
  - (i) the meeting stands adjourned to a day and at a time and place as the Directors decide or, if no such decision is made, to the same day in the next week at the same time and place; and

- (ii) if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting is automatically dissolved.

#### **7.7 Chairperson of meetings**

- (a) Subject to paragraph (b), the Chair of Directors will preside as chair at every general meeting.
- (b) Where a general meeting is held and:
  - (i) there is no chairperson; or
  - (ii) the chairperson is not present within 15 minutes after the time appointed for the meeting or declines to act as chairperson of the meeting or part of the meeting,the Directors present may choose one of their number or, in the absence of all Directors or if none of the Directors present wish to act, the Members Present may elect one of their number to be chairperson of the meeting.

#### **7.8 Adjournments**

- (a) The chair may, and if so directed by the meeting must, adjourn the meeting from time to time and from place to place.
- (b) The only business which may be transacted at any adjourned meeting is the business left unfinished at the meeting from which the adjournment took place.
- (c) When a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of an original meeting.
- (d) Except as provided by paragraph (c), it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

#### **7.9 Voting at general meetings**

- (a) Any resolution to be considered at a meeting must be decided on a show of hands unless a poll is demanded by:
  - (i) the chairperson;
  - (ii) at least 7 Members Present;
  - (iii) a Member or Members Present representing at least 5% of the votes that may be cast on the resolution on a poll.
- (b) If a meeting is conducted at more than one venue then a person at each venue must be appointed by the chair to act as returning officer and to report the results of the voting conducted at the respective venue.
- (c) Unless a poll is demanded in accordance with sub-rule (a), a declaration by the chair that a resolution has, on a show of hands, been carried or lost and an entry to that effect in the minutes of the meeting are conclusive evidence of the fact without the need to show the number or proportion of the votes recorded in favour of or against the resolution.

#### **7.10 Procedure for polls**

- (a) A demand for a poll may be withdrawn.

- (b) A poll, when demanded, must be taken in the manner and at the time the chair directs.
- (c) The result of the poll is a resolution of the meeting at which the poll was demanded.
- (d) Subject to paragraph (e), if a poll has been demanded at a meeting, the meeting may continue with the transaction of business other than the resolution on which the poll was demanded.
- (e) A poll demanded on the election of a chair or on a resolution for adjournment must be taken without delay.

#### **7.11 Chairperson's casting vote**

In the case of an equality of votes on a show of hands or on a poll, the chairperson of the meeting has a casting vote in addition to any vote to which the chairperson may be entitled as a Member, proxy, attorney or body corporate representative.

#### **7.12 Representation and voting of members**

Subject to this constitution:

- (a) at meetings of Members each Member entitled to attend and vote may attend and vote in person or by proxy, or attorney and where the Member is a body corporate, by representative;
- (b) on a show of hands to decide a resolution, each Member Present has 1 vote; and
- (c) on a poll, each Member Present has 1 vote.

#### **7.13 Objections to qualification to vote**

- (a) An objection to the qualification of a person to vote may be raised only at the meeting or adjourned meeting at which the vote objected to is tendered.
- (b) Any objection must be referred to the chairperson of the meeting, whose decision is final.
- (c) A vote allowed after an objection is valid for all purposes.

#### **7.14 Number of proxies**

- (a) A Member may appoint 1 proxy for each vote.
- (b) A proxy need not be a Member.

#### **7.15 Form of proxy**

- (a) An instrument appointing a proxy must be in writing under the hand of the appointor or of the appointor's attorney duly authorised in writing or, if the appointer is a body corporate, either under seal or under the hand of an officer or attorney duly authorised.
- (b) An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where the instrument so provides, the proxy is not entitled to vote on the resolution except as specified in the instrument.
- (c) A proxy may vote as the proxy thinks fit on any motion or resolution if the instrument appointing the proxy does not specify the manner of voting.

- (d) An instrument appointing a proxy may be in any form that the Directors may accept or stipulate.
- (e) [The instrument of appointment may specify the proportion or number of votes that the proxy may exercise.]

#### **7.16 Lodgement of proxies**

An instrument appointing a proxy shall not be treated as valid unless the instrument, and the power of attorney or other authority (if any) under which the instrument is signed or a notarially certified copy of that power or authority, is or are deposited at the registered office, not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll, or a shorter period as is specified in the notice convening the meeting or as the Directors permit.

#### **7.17 Validity of proxies**

- (a) Unless the company has received written notice at least 48 hours before the start or resumption of the meeting at which the proxy votes, a vote cast by the proxy will be valid even if, before the proxy votes:
  - (i) the appointing member dies;
  - (ii) the member is mentally incapacitated; or
  - (iii) the Member revokes the authority under which the proxy was appointed by a third party.
- (b) A proxy is not revoked by the principal attending and taking part in the meeting, unless the principal actually votes at the meeting on the resolution for which the proxy is proposed to be used.

#### **7.18 Where proxy is incomplete**

- (a) No instrument appointing a proxy is treated as invalid merely because it does not contain:
  - (i) the address of the appointor or of a proxy;
  - (ii) the proxy's name or the name of the office held by the proxy; or
  - (iii) in relation to any or all resolutions, an indication of the manner in which the proxy is to vote.
- (b) Where the instrument does not specify the name of a proxy, the instrument is taken to be given in favour of the chair of the meeting.

#### **7.19 Right of secretary and others to attend general meeting**

- (a) A secretary who is not a Member is entitled to be present and, at the request of the chair, to speak at any general meeting.
- (b) Any other person (whether a Member or not) requested by the Directors to attend any general meeting is entitled to be present and, at the request of the chair, to speak at that general meeting.

---

## **8. Board**

---

### **8.1 Directors**

- (a) The Board will comprise not less than 5 and not more than 7 directors.
- (b) The company may, by resolution, increase or decrease the number of directors.
- (c) Members shall only have 1 representative elected to the Board.

### **8.2 Powers**

- (a) Subject to the Act and this Constitution, the business of the company is managed by the Board, which may exercise all powers of the company which are not, by the Act or this Constitution, required to be exercised by the company at a general meeting.
- (b) Without limiting the generality of paragraph (a), the Directors may exercise all the powers of the company:
  - (i) to borrow money, to charge any property or business of the company; or
  - (ii) to issue debentures or give any other security for a debt, liability or obligation of the company or of any other person.

### **8.3 Retirement of Directors**

- (a) At each AGM of the company all the directors shall retire from office.
- (b) A retiring director is eligible for re-election.
- (c) The company may, at the meeting at which a director retires, by resolution fill the vacated office by electing a person to that office.
- (d) If the vacated office is not so filled, the retiring director shall, if seeking re-election and not being disqualified under the Act from holding office as a director, be deemed to have been re-elected unless at that meeting:
  - (i) it is expressly resolved not to fill the vacated office; or
  - (ii) a resolution for the re-election of that director is put and lost.

### **8.4 Appointment and removal**

- (a) Subject to the Act, the company may at any time by resolution passed in general meeting:
  - (i) appoint any person as a director; or
  - (ii) remove any director from office.
- (b) A person appointed by resolution passed in general meeting to replace a director who was removed from office before the expiration of his or her term is subject to retirement at the same time as if the person were appointed on the day on which the replaced director was last elected a Director.
- (c) Subject to the Act and Rule 8.1, the directors may at any time appoint any person as a director, either to fill a casual vacancy or as an addition to the existing directors.
- (d) A director appointed under paragraph (c) shall retire from office at the AGM next following their appointment.

- (e) Subject to Rule 8.1, a director retiring under paragraph (d) shall hold office as a director until the end of the meeting at which the director retires and shall be eligible for reappointment by the Members at that AGM.

#### **8.5 Vacation of office**

The office of director shall become vacant if the director:

- (a) is removed from office by the Members in accordance with this Constitution and the Act;
- (b) is prohibited from being a director of the company by reason of any order made under the Act;
- (c) resigns his or her office by notice in writing given to the company;
- (d) becomes bankrupt or makes any arrangement or composition with her or his creditors generally or becomes of unsound mind or a person whose estate is liable to be dealt with under the law relating to mental health;
- (e) dies;
- (f) fails to attend two consecutive Board meetings without reasonable excuse as determined by the Board at its discretion; or
- (g) is directly or indirectly interested in any contract or proposed contract with the company and fails to declare the nature of his interest as required by the Act.

#### **8.6 Appointment of attorneys**

- (a) The Board may, by power of attorney, appoint any person to be the attorney of the company for the purposes, with the powers, authorities and discretions vested in or exercisable by the Board for any period and subject to any conditions as they think fit.
- (b) Any appointment under paragraph (a) may be made on terms for the protection and convenience of persons dealing with the attorney as the Board thinks fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.

### **9. Proceedings of the Board**

---

#### **9.1 Proceedings**

- (a) Subject to paragraph (b), the Board may meet together for the dispatch of business and adjourn and otherwise regulate its meetings as it think fit.
- (b) The Board must meet at least 4 times a year.
- (c) A Director may request at any time and, on the request of a Director, a secretary must convene a meeting of the Board.
- (d) Reasonable notice must be given to every Director of the place, date and time of every meeting of the Board. Where any Director is for the time being outside of Australia, notice need only be given to that Director if contact details have been given, but notice must always be given to any alternate director in Australia whose appointment by that Director is for the time being in force.

---

**9.2 Meetings by technology**

- (a) For the purposes of the Act, each Director, on becoming a Director (or on the adoption of this constitution), consents to the use of the following technology for calling or holding of a meeting of the Board:
  - (i) video;
  - (ii) telephone;
  - (iii) electronic mail;
  - (iv) any other technology which permits each Director to communicate with every other Director; or
  - (v) any combination of the technologies described in the above paragraphs.

A Director may withdraw the consent given under this Rule in accordance with the Act.

- (b) Where the Directors are not all in attendance at one place and are holding a meeting using technology and each Director can communicate with the other Directors:
  - (i) the participating Directors are, for the purpose of every provision of this constitution concerning meetings of the Board, taken to be assembled together at a meeting and to be present at that meeting; and
  - (ii) all proceedings of those Directors conducted in that manner are as valid and effective as if conducted at a meeting at which all of them were present.

**9.3 Quorum at meetings**

At a meeting of the Board, the number of Directors whose presence is necessary to constitute a quorum is 4 Directors entitled to vote. No business may be conducted unless a quorum is present at the time the business is being considered.

**9.4 Vacancy**

If the number of Directors in office is not sufficient to constitute a quorum at a Board meeting, then the Board may act but only for the purpose of appointing a sufficient number of Directors for that Board meeting to constitute a quorum or of convening a general meeting of the company.

**9.5 Chairperson of the Board**

- (a) The Directors shall elect one of their number as the chairperson and may decide the period for which the chairperson is to hold office as chairperson.
- (b) Where a meeting of the Board is held and:
  - (i) a chairperson has not been elected as provided by paragraph (a); or
  - (ii) the chairperson is not present within 15 minutes of the time appointed for the holding of the meeting or does not wish to chair the meeting or a part of the meeting,

the Directors present may elect one of their number to be a chairperson of the meeting.

---

**9.6 Proceedings at meetings**

- (a) Subject to this constitution, questions arising at a meeting of the Board are decided by a majority of votes of Directors present and voting and for all purposes any such decision is taken to be a decision of the Board.
- (b) In the case of an equality of votes, the chairperson of the meeting has a casting vote in addition to the chairperson's vote as Director.

**9.7 Conflicts of Interests**

- (a) A Director is not disqualified by the Director's office from contracting with the company in any capacity by reason of holding the office of Director.
- (b) In relation to a contract or arrangement in which a Director is in any way interested:
  - (i) the fact that the Director signed the document on behalf of the company evidencing the contract or arrangement will not in any way affect its validity; and
  - (ii) the Director will not be liable to account to the company for any profit derived in respect of the contract or arrangement merely because of the Director's office or the fiduciary relationship it entails.
- (c) A contract or arrangement made by the company or any related body corporate with a Director may not be avoided merely because the Director is a party to the contract or arrangement or otherwise interested in it.

**9.8 Material Personal Interest**

- (a) Subject to paragraph (b), a Director who has a material personal interest in a matter that relates to the affairs of the company must give the other Directors notice of his or her interest in accordance with the Act.
- (b) A Director with a material personal interest in a matter that relates to the affairs of the company is not required to give notice in the following circumstances:
  - (i) if all of the following conditions are met:
    - (A) the Director has already given notice of the nature and extent of the interest and its relation to the affairs of the company;
    - (B) if a person who was not a Director at the time the notice was given is appointed as a Director, the notice is given to that person; and
    - (C) the nature or extent of the interest has not materially increased above that disclosed in the notice;
  - (ii) if the Director has given a standing notice of the nature and extent of the interest in accordance with the Act and that standing notice is still effective in relation to the interest; or
  - (iii) as otherwise permitted under the Act.
- (c) A Director who has a material personal interest in a matter that is being considered at a Board meeting must not be present while the matter is being considered at the meeting or vote on the matter, except as permitted in accordance with the Act.

- (d) Nothing in this Rule affects the duty of a Director:
  - (i) who holds any office or possesses any property whereby, directly or indirectly, duties or interests might be created in conflict with the Directors' duties or interests as a Director, to declare at a meeting of Directors, the fact and the nature, character and extent of the conflict; or
  - (ii) to comply with the Act or any other law.

#### **9.9 Alternate directors**

- (a) A director may:
  - (i) with the approval of a majority of the other directors (if any), appoint a person; or
  - (ii) without the need for the approval of the other directors, appoint another director, to be an alternate director in the director's place during any period that the director thinks fit.
- (b) An alternate director is entitled to notice of meetings of the Board and, if the appointor is not present at such a meeting, is entitled to attend and vote in the director's stead.
- (c) An alternate director may exercise any powers which the appointor may exercise. The exercise of any power by the alternate director (including signing a document) is taken to be the exercise of the power by the appointor. The exercise of any power by the alternate director is as agent of the company and not as agent of the appointor. Where the alternate is another director, that director is entitled to cast a deliberative vote on the director's own account and on account of each person by whom the director has been appointed as an alternate director.
- (d) The appointment of an alternate director:
  - (i) may be terminated at any time by the appointor even if the period of the appointment of the alternate director has not expired; and
  - (ii) terminates automatically if the appointor vacates office as a director.
- (e) An appointment or the termination of an appointment of an alternate director must be effected by service on the company of a notice in writing signed by the director making the appointment.

#### **9.10 Delegation**

The Directors may delegate any of their powers in accordance with the Act.

#### **9.11 Written Resolutions**

- (a) If a document:
  - (i) is sent to all those entitled to receive notice of a meeting at which a resolution could be put;
  - (ii) contains a statement that the signatories to it are in favour of that resolution;
  - (iii) the terms of the resolution are set out or identified in the document; and
  - (iv) has been signed by a majority of the Board entitled to vote on that resolution,

a resolution in those terms is passed on the day on which and at the time at which the document was signed by a majority of the Board and the document has effect as a minute of the resolution.

- (b) For the purposes of paragraph (a):
  - (i) 2 or more separate documents containing statements in identical terms each of which is signed by one or more Directors shall together be taken to constitute one document containing a statement in those terms signed by those Directors at the time at which the last of those documents to be signed was signed by a Director;
  - (ii) a reference to a majority of the Board does not include a reference to an alternate director whose appointor has signed the document, but an alternate director may sign the document in the place of the alternate director's appointor; and
  - (iii) a fax which is received by the company or an agent of the company and is sent for or on behalf of a Director or alternate director shall be taken to be signed by that Director or alternate director not later than the time of receipt of the fax by the company or its agent in legible form.

## **9.12 Committees**

- (a) Rules 9.1, 9.2 and 9.4 apply to any committee as if each reference in those Rules to the Board was a reference to the members of the committee and each reference to a meeting of the Board was to a meeting of the committee.
- (b) Any committee formed by the Board need not consist of Directors only.
- (c) The number of members whose presence at a meeting of a committee is necessary to constitute a quorum is the number determined by the Board and, if not so determined, is 2. Unless the Board determines otherwise, the quorum need be present only at the time when the meeting proceeds to business.
- (d) The minutes of all the proceedings and decisions of every committee shall be made, entered and signed in the same manner in all respects as minutes of proceedings of the Board are required by the Act to be made, entered and signed.

## **9.13 Defects in appointments**

- (a) All acts done by any meeting of the Directors or person acting as a Director are as valid as if each person was duly appointed and qualified to be a Director or a member of a committee.
- (b) Paragraph (a) applies even if it is afterwards discovered that there was some defect in the appointment of a person to be a Director or to act as a Director or that a person so appointed was disqualified.

## **10. Chief Executive Officer**

---

### **10.1 Power to appoint CEO**

- (a) The Board may employ a CEO for the period and on the terms as they think fit.

- (b) Subject to the terms of any agreement entered into in a particular case, the Board may at any time terminate the employment of a CEO.
- (c) A CEO may or may not be a director.
- (d) The appointment of a CEO who is a director is automatically revoked if the directorship terminates for any reason.

## **10.2 Remuneration**

A CEO may, subject to the Act and the terms of any agreement between the CEO and the company, receive remuneration as the Board decide.

## **10.3 Delegation of powers to CEO**

- (a) The Board may, on the terms and conditions and with any restrictions as they think fit, confer on a CEO any of the powers exercisable by them.
- (b) Any powers so conferred shall be concurrent with and subject to the powers of the Board.
- (c) The Board may at any time withdraw or vary any of the powers conferred on a CEO.

## **11. Secretaries and other officers**

---

### **11.1 Secretaries**

- (a) A secretary of the company holds office on the terms and conditions, as to remuneration and otherwise, as the Board decides.
- (b) The Board may at any time terminate the appointment of a secretary.

### **11.2 Other officers**

- (a) The Board may from time to time:
  - (i) create any other position or positions in the company with the powers and responsibilities as the Board may from time to time confer; and
  - (ii) appoint any person, whether or not a Director, to any position or positions created under sub-paragraph (i).
- (b) The Board at any time may terminate the appointment of a person holding a position created under paragraph (a) and may abolish the position.

## **12. Application of income and property**

---

### **12.1 Profits**

Subject to Rules 12.2 and 12.3, the profits (if any) or other income and property of the company must be applied solely towards the promotion of the objects of the company set out in Rule 5 and no portion of it may be paid or transferred, directly or indirectly, to any Member of the company whether by way of dividend, bonus or otherwise.

---

## **12.2 Payments in good faith**

Nothing in Rule 12.1 prevents any payment in good faith by the company of:

- (a) reasonable and proper remuneration to any Member for any services actually rendered or goods supplied in the ordinary and usual course of business to the company;
- (b) the payment or reimbursement of out-of-pocket expenses incurred by a Member of the company on behalf of the company where the amount payable does not exceed an amount previously approved by the Directors of the company;
- (c) reasonable and proper rent for premises let or demised by any Member of the company to the company;
- (d) moneys to any Member, being a solicitor, accountant or other person engaged in any profession, for all usual professional or other charges for work done by that person or that person's firm or employer, where the provision of the service has the prior approval of the Directors and where the amount payable is approved by the Directors and is not more than an amount which commercially would be reasonable payment for the service; or
- (e) interest at a rate not exceeding the Prescribed Rate on money borrowed from Members of the company.

## **12.3 Directors fees and remuneration**

The company may not pay fees to its Directors but may make payments to or on behalf of Directors in good faith for:

- (a) the payment or reimbursement of out-of-pocket expenses reasonably incurred by a Director in the performance of any duty as Director where such payment or reimbursement has been approved by the Directors;
- (b) moneys to any Director for services provided to the company by that person in an amount approved by the Directors and which is not more than amount which commercially would be reasonable payment for the service;
- (c) an insurance premium in respect of a contract insuring a Director for a liability incurred as an officer of the company where the Directors have approved the payment of the premium; or
- (d) any payment to a Director in respect of the indemnity given under Rule 18.

## **12.4 Negotiable instruments**

All negotiable instruments of the company must be executed by the persons and in the manner the Board decides from time to time.

## **13. Limited Liability**

---

The liability of the Members is limited.

---

## 14. Extent of liability

---

Each Member undertakes to contribute to the property of the company if the company is wound up while he, she or it is a Member or within 1 year after he, she or it ceases to be a Member, for payment of the company's debts and liabilities contracted before he, she or it ceases to be a Member and of the costs, charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required, but not exceeding [\$1.00].

---

## 15. Notices generally

---

- (a) Any Member who has not left at or sent to the registered office, a place of address or an electronic mail address (for registration in the register) at or to which all notices and documents of the company may be served or sent is not entitled to receive any notice.
- (b) A notice may be given by the company to any Member by:
  - (i) serving it on the Member personally;
  - (ii) sending it by post to the Member or leaving it at the Member's address as shown in the register or the address supplied by the Member to the company for the giving of notices;
  - (iii) serving it in any manner contemplated in this paragraph (b) on a Member's attorney as specified by the Member in a notice given under paragraph (c);
  - (iv) fax to the fax number supplied by the Member to the company for the giving of notices; or
  - (v) transmitting it electronically to the electronic mail address given by the Member to the company for giving notices.
- (c) A Member may, by written notice to the secretary left at or sent to the registered office, require that all notices to be given by the company or the Directors be served on the Member's attorney at an address specified in the notice.
- (d) Notice to a Member whose address for notices is outside Australia must be sent by airmail, fax or electronic mail.
- (e) Where a notice is sent by post, service of the notice is taken to be effected by properly addressing, prepaying and posting a letter containing the notice and to have been effected:
  - (i) in the case of a notice of a meeting, on the day after the date of its posting; and
  - (ii) in any other case, at the time at which the letter would be delivered in the ordinary course of post.
- (f) Where a notice is sent by fax or electronic transmission, service of the notice is taken to be effected by properly addressing and sending or transmitting the notice and to have been effected on the day it is sent.

---

## 16. Notices of general meeting

---

Notice of every general meeting must be given:

- (i) in the manner authorised by Rule 15;
- (ii) to every Member and to each Director; and
- (iii) to the auditor to the company (if any).

No other person is entitled to receive notice of general meetings.

## 17. Winding Up

---

- (a) On the winding up of the Public Fund or on the revocation of the endorsement (if any) of the company as a deductible gift recipient, any surplus assets of the Public Fund remaining after the payment of liabilities attributable to it must be transferred to another public fund, with similar objectives that is on the Register of Environmental Organisations.
- (b) If, on the winding up or dissolution of the company by any means and for any reason, there remains any property, after the satisfaction of all the company's debts and liabilities, the property must be given or transferred to:
  - (i) one or more institutions (whether a Member or Members of the company) selected by the Members of the company at or before the dissolution of the company:
    - (A) having objects similar to the objects of the company; and
    - (B) whose constitution prohibits the distribution of its or their income and property to an extent at least as great as that imposed on the company under Rule 12; or
  - (ii) if no institutions meet the requirements of paragraph (i), to one or more other institutions, associations or bodies (whether or not a Member or Members of the company) selected by the Members of the company at or before the dissolution of the company, the objects of which are the promotion of charity and gifts to which are allowable deductions under the Income Tax Assessment Act 1997; or
  - (iii) if the Members do not make a selection pursuant to paragraphs (i) or (ii) for any reason, to one or more institutions, associations or bodies meeting the requirements of either paragraphs (i) or (ii) selected by the Directors of the company.

## 18. Indemnity

---

### 18.1 Indemnity Coverage

To the extent permitted by law and without limiting the powers of the company, the company must indemnify each person who is, or has been, a Director, CEO or secretary of the company against any liability which relate to the person serving or having served as a Director, secretary or employee in relation to the company:

- (a) other than:
  - (i) a liability owed to the company or a related body corporate;

- (ii) a liability for a pecuniary penalty order under section 1317G or a compensation order under section 1317H; or
  - (iii) a liability that is owed to someone (other than the company or a related body corporate) and did not arise out of conduct in good faith;
- (this paragraph (a) does not apply to a liability for legal costs).
- (b) other than for legal costs incurred in defending an action for liability if the costs are incurred:
    - (i) in defending or resisting civil proceedings in which the person is found to have a liability for which they could not be indemnified under paragraph (a); or
    - (ii) in defending or resisting criminal proceedings in which the person is found guilty; or
    - (iii) in defending or resisting proceedings brought by ASIC or a liquidator for a court order if the grounds for making the order are found by the Court to be established; or
    - (iv) in connection with proceedings for relief to the person under the Act in which the Court denies the relief.

Paragraph (b)(iii) does not apply to costs incurred in responding to actions brought by ASIC or a liquidator as part of an investigation before commencing proceedings for the court order.

## **18.2 Authority to enter into indemnity or insurance**

To the extent permitted by law and without limiting the powers of the company, the Directors may authorise the company to, and the company may enter into any:

- (a) documentary indemnity in favour of; or
- (b) insurance policy for the benefit of,

a person who is, or has been, a Director, secretary, auditor, employee or other officer of the company or of a subsidiary of the company, which indemnity or insurance policy may be in such terms as the Directors approve and, in particular, may apply to acts or omissions prior to or after the time of entering into the indemnity or the policy.

## **18.3 Continuation of benefit**

The benefit of each indemnity given in Rule 18.1 continues, even after its terms or the terms of this Rule are modified or deleted, in respect of a liability arising out of acts or omissions occurring prior to the modifications or deletion

## **19. Seals and their use**

- (a) The company may have a common seal. If the company has a common seal it may also have a duplicate common seal.

- (b) A Seal may be used only by the authority of the Directors, or of a committee of the Directors authorised by the Directors to authorise the use of the Seal. Every document to which the Seal is affixed must be signed by:
  - (i) 2 Directors; or
  - (ii) a Director and a secretary (or another person appointed by the Board to countersign that document or a class of documents in which that document is included).
- (c) This Rule does not limit the ways in which the company may execute a document.

## 20. Gift Deductibility

---

### 20.1 Establishment of the Public Fund

Subject to Rule 20.2, the company must establish the Public Fund as a gift fund in connection with an application for the company to be a deductible gift recipient under the Income Tax Assessment Act 1997 which will satisfy the following requirements:

- (a) the Public Fund will be established for the purpose of supporting the environmental objects of the company;
- (b) members of the public are to be invited to make gifts of money or property to the Public Fund for the environmental purposes of the company;
- (c) gifts of money or property made for the Public Fund's purpose will be deposited into the Public Fund;
- (d) money (such as interest) received by the company because of such gifts will be credited to the bank account of the Public Fund;
- (e) the Public Fund will not receive any other money or property;
- (f) the company will use gifts made to the Public Fund, and any money received because of such gifts, for the sole purpose of the Public Fund;
- (g) gifts to the Public Fund will be kept separate from any other funds of the company;
- (h) a separate bank account and clear accounting procedures will be implemented;
- (i) receipts will be issued in the name of the Public Fund;
- (j) the Public Fund will be operated on a non-profit basis and moneys will not be distributed to Members of the company except as reimbursement for out-of-pocket expenses incurred on behalf of the Public Fund or proper remuneration for administrative services;
- (k) proper accounting records and procedures are to be kept and used for the Public Fund;
- (l) in accordance with subdivision 30-E of the *Income Tax Assessment Act 1997* (Cth), the Public Fund will comply with any rules that the Treasurer and the Minister for Environment, Sport and Territories make to ensure that gifts made to the Public Fund are used only for the Public Fund's purpose;

- (m) any allocation of funds or property to other persons or organisations will be made in accordance with the established purposes of the company and will not be influenced by the preference of the donor; and
- (n) a committee of management of no fewer than 3 persons will administer the Public Fund. The committee will be appointed by the company. A majority of the members of the committee will be 'responsible persons' as defined in the Guidelines.

## 20.2 Public Fund requirements

- (a) Notwithstanding the requirements set out in Rule 20.1, the Public Fund established pursuant to that Rule will be maintained and operated in a manner which complies with the legislative and administrative requirements which apply from time to time for the maintenance and operation of a gift fund.
- (b) The company must inform the Department responsible for the environment as soon as possible if:
  - (i) the company changes the name of the Public Fund; or
  - (ii) if there is any change to the membership of the management committee of the Public Fund; or
  - (iii) there has been any departure from the model rules located in the Guidelines.
- (c) Statistical information requested by the Department responsible for the environment on donations to the Public Fund will be provided within 4 months of the end of the financial year.
- (d) An audited financial statement for the company and its Public Fund will be supplied with the annual statistical return referred to in sub-rule (c). The statement will provide information on the expenditure of the Public Fund monies and the management of Public Fund assets.

## 21. Inspection of records

- (a) The Directors may authorise a Member to inspect books of the company to the extent, at the time and places and under the conditions, the Board consider appropriate.
- (b) A Member (other than a Director) does not have the right to inspect any document of the company except as provided by law or as authorised by the Board.

Revised at AGM August 2017 by special resolution.

Added 8.1 (d) & (e)

Revised 8.3 (a)