

The Corporations Law

CONSTITUTION

OF

LANDSCAPE NSW & ACT LTD

ACN 002 644 920

‘RULES’

A Company Limited by Guarantee and not having a Share Capital



Amended by

President, Ron Berkelmans
23 September 2013

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A.B.N: 3711 653 2957



Growing the landscape industry together



Constitution of Landscape NSW & ACT Ltd

ACN 002 644 920

A. INTRODUCTION

A1. NAME

- 1.1 The name of the Company is Landscape NSW & ACT Ltd (ACN 002 644 920) **(the Company)**.

A2. OBJECTS

The Objects for which the Company has been formed are:-

- 2.1 To further and promote the interests of all Landscape Contractors and any associated companies, institutions, societies or associations in the State of New South Wales and the Australian Capital Territory and within Australia.
- 2.2 To foster and maintain the development of an organisation of Landscape Contractors administered Australia wide.
- 2.3 To assist, co-operate and affiliate with related organisations both within Australia and overseas.
- 2.4 To encourage and support trade displays, seminars, symposiums, lectures or any other functional matter which may be educational and illustrative of the role of Landscape Contractors generally.
- 2.5 To promote the interests of Landscape Contractors and to liaise with all Government and other organisations or bodies in relation to the interests and proposed activities of Landscape Contractors.
- 2.6 To appoint Members of the Company to act as Mediators or Arbitrators in relation to any Landscape Contracting matter, operation or dispute involving a Member subject at all times to any competing law or jurisdiction of any competent Court or authority.

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A close-up photograph of a green leaf with prominent veins, serving as a background for the footer text.

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- 2.7 To do all things which are reasonably necessary for the attainment of the objects of the Company and the development and general welfare of Landscape Contractors.
- 2.8 To indemnify any person or persons whether a Member of the Company or not who may have incurred or may incur any personal liability by reason of that person or persons acting for the benefit of the Company and for that purpose to give such personal persons mortgages, charges or other securities over the whole or any part of the Company's business or undertaking whether real or personal and both present and future.
- 2.9 To design, register, purchase, apply for or otherwise acquire any invention, trade or other marks, copyright, design, patent rights and privileges, processes, licences, concession and the like conferring any exclusive or non-exclusive or limited rights to use any mark, device, brand or invention or similar thing which may be capable of being used for any of the purposes calculated directly or indirectly to benefit the Company and to further sell, dispose of, use, exercise, charge and develop the same or to grant licences or privileges in respect thereof.
- 2.10 To insure against damage by fire or otherwise any insurable property of the Company and to ensure any employee of the Company against risk, accident or fidelity in the course of his or her employment by the Company as required by law.
- 2.11 To subscribe to, become a Member of and co-operate with any other company, club, association or organisation, (whether incorporated or not), whose objects are altogether or in part similar to those of the Company set out in this Introduction.
- 2.12 To purchase, take on lease or in exchange, hire and otherwise acquire any lands, buildings, easements or property, real and personal; and any rights or privileges which may be requisite for the purposes of, or capable of being conveniently used in connection with, any of the Objects of the Company.

Provided that in case the Company shall take or hold any property which may be subject to any trusts the Company shall only deal with the same in such manner as is allowed by the law having regard to such trusts.

- 2.13 To enter into any arrangements with any Government or authority (supreme, municipal, local or otherwise) that may seem conducive to the Company's Objects or any of them; and to obtain from any such Government or authority any rights, privileges and concessions which the Company may think it desirable to obtain and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions.
- 2.14 To appoint, employ, remove or suspend such managers, clerks, secretaries, servants, and such other persons as may be necessary or convenient for the purposes of the Company.

- 2.15 To construct, improve, maintain, develop, work, manage, carry out, alter or control any houses, buildings, grounds, works or conveniences which may seem calculated directly or indirectly to advance the Company's interest, and to contribute to, subsidise or otherwise assist and take part in the construction, improvement, maintenance, development, working, management, carrying out, alteration or control thereof.
- 2.16 To invest and deal with the money of the Company not immediately required for its purposes in such manner as may be permitted by law.
- 2.17 To borrow or raise or secure the payment of money in such manner as the Company may think fit and to secure the same or the repayment or performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the Company in any way and in particular by the issue of debentures, perpetual or otherwise, charged upon all or any of the Company's property (both present and future) and to purchase, redeem or pay off any such securities.
- 2.18 To make, draw, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading and other negotiable or transferable instruments.
- 2.19 In furtherance of the Objects of the Company to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any part of the property and rights of the Company.
- 2.20 To take or hold mortgages, liens and charges to secure payment of the purchase price or any unpaid balance of the purchase price, of any part of the Company's property of whatsoever kind sold by the Company, or any money due to the Company from purchasers and others.
- 2.21 To take any gift of property whether subject to any special trust or not, for any one or more of the Objects of the Company.
- 2.22 To take such steps by personal or written appeals, public meetings or otherwise, as may from time to time be deemed expedient for the purpose of procuring contributions to the funds of the Company, in the shape of donations, annual subscriptions or otherwise.
- 2.23 To print and publish any newspapers, periodicals, and books or leaflets that the Company may think desirable for the promotion of its Objects.
- 2.24 In furtherance of the Objects of the Company to amalgamate with any companies, institutions, societies or associations having Objects altogether or in part similar to those of the Company and which shall prohibit the distribution of its or their income and property among its or their Members to an extent at least as great as that imposed upon the Company under or by virtue of clause 3 of this Introduction.

- 2.25 In furtherance of the Objects of the Company to transfer all or any part of the property, assets, liabilities and engagements of the Company to any one or more of the companies, institutions, societies or associations with which the Company is authorised to amalgamate.
- 2.26 To make donations for patriotic or charitable purposes.
- 2.27 In furtherance of the Objects of the Company to create any Trust or to give or grant any money to any Trust under the control of the Company or any other Trust constituted for charitable purposes.
- 2.28 To do all such other things as are incidental or conducive to the attainment of the Objects and the exercise of the powers of the Company.

A3. APPLICATION OF INCOME AND PROPERTY

- 3.1 The income and real and personal property of the Company whenever and however derived shall be applied solely towards the promotion of the Objects of the Company as set forth in this Constitution, and no portion of such income and property shall be paid or transferred, directly or indirectly, by way of any dividend, bonus or otherwise by profit to the Members of the Company **PROVIDED THAT** nothing in this Clause shall prevent the payment, in good faith, of reasonable and proper remuneration to any Officer or servant of the Company, or to any Member of the Company in return for any services actually rendered to the Company, nor prevent the payment of interest (at a rate not exceeding the rate for the time being charged by the Commonwealth Bank of Australia for Business Overdraft Accounts on money lent), or reasonable and proper rent for premises demised or let by any Member to the Company.

A4. MEMBER'S LIABILITY

- 4.1 The Liability of the Members is limited.

A5. UNDERTAKING OF MEMBERS

- 5.1 Every Member of the Company undertakes to contribute to the assets of the Company, in the event of it being wound up while a Member or within one (1) year after ceasing to be a Member, for payment of the debts and liabilities of the Company contracted before that Member ceases to be a Member, and of the costs, charges, and expenses of winding up and for the adjustment of the rights of the contributory amongst themselves.
- 5.2 The limit of any amount of contribution under this Clause shall be an amount not exceeding Two Dollars (\$A2.00).

A6. PROPERTY OF THE COMPANY ON WINDING UP OR DISSOLUTION

- 6.1 If upon the winding-up or dissolution of the Company there remains, after satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the Members of the Company, but shall be given or transferred to some other institution or institutions having Objects similar to the Objects of the Company, and which shall prohibit the distribution of its or other income and property among its or their Members to any extent at least as great as is imposed on the Company under this Constitution, such institution or institutions to be determined by the Members of the Company at or before the time of dissolution, and if and so far as effect cannot be given to the above provision, then to some charitable object.

A7. ACCOUNTS OF THE COMPANY

- 7.1 True accounts shall be kept of the sums of money received and expended by the Company, and the matters in respect of which such receipt and expenditure takes place, and of the property, credits, and liabilities of the Company and, subject at all times to any restrictions as to the time and manner of inspecting the same that may be imposed in accordance with the Constitution of the Company for the time being in force, shall be open to the inspection of the Members.
- 7.2 Once at least in every year, the accounts of the Company shall be examined by one or more properly qualified Auditor or Auditors who shall report to the Members in accordance with the provisions of the *Corporations Act*.

A8. PHILOSOPHY OF THE COMPANY

- 8.1 The Company is committed and will use its best endeavours to allocate the whole of its available income property and resources to:
- 8.1.1 Presenting to the general community an honourable and positive image of its services and of Landscape Contractors generally;
 - 8.1.2 Respecting personal privacy and confidentiality and acting with consistency and fairness to all persons; and
 - 8.1.3 Do all things to further the Objects of the Company.

A9. CORPORATE COVENANTS

- 9.1 The Company shall act in accordance with this Introduction and the balance of Constitution and carry on its business at all times in accordance with the *Corporations Act* and all or any other Legislation relevant to the conduct of the business of the Company.

1. DEFINITIONS

In this Constitution are regulations which unless there be something in the subject or context which is inconsistent the following words shall have the following meanings:-

- 1.1 “Act” means the Corporations Act and/or the Corporations Law however described and when any provision of the Act is referred to then reference is to that provision as modified by any law for the time being in force and unless the contrary intention appears any expression so defined in the Act (or any modification thereof made by any law in force at the date upon which the Constitution became binding on the Company) shall have the meaning so defined.
- 1.2 “Board” means the Members for the time being duly elected and constituted in accordance with the Constitution as the Board of the Company.
- 1.3 “Board Member” means a currently elected Member of the Board.
- 1.4 “By Laws” means and includes all Rules and all Resolutions of the Board permitted under the Constitution.
- 1.5 “Executive Officer” means that person appointed by the Board as an employee of the Company to fulfill the Executive and Managerial tasks prescribed from time to time by the Board and includes the term “Secretary”.
- 1.6 “Company” means Landscape NSW & ACT Ltd.
- 1.7 “Constitution” means collectively the Introduction to the Constitution and the Constitution of the Company and reference to “Constitution” means both the Introduction and this Constitution or any parts thereof.
- 1.8 “Financial Year” means for the purposes of this Constitution a period commencing on the first (1st) day of January and ending on the last day of December in each calendar year.
- 1.9 “Industry” means the landscape construction industry both domestic and commercial.
- 1.10 “Member” means a person who has been accepted for Membership of the Company under Clause 4 of the Constitution and is not unfinancial.
- 1.11 “Nominated Person” means a person nominated in writing by an Affiliate Member as that person to represent the Affiliate Member in all dealings with the Company.
- 1.12 “Office” means the registered office for the time being of the Company in accordance with the records of ASIC.
- 1.13 “Person” means a natural person whether male or female.

- 1.14 “*President*” means any Member properly appointed to perform the duties of a President of the Company and so described including use of the terms *Chairperson*, *Chairwoman* and/or *Chair* within this Constitution.
- 1.15 “*Regulations*” means and refers to all Clauses of the Constitution and any By Laws.
- 1.16 “*Secretary*” means any person properly appointed to perform the duties of a Secretary of the Company and includes an Honorary Secretary.
- 1.17 “*Special Resolution*” has the meaning given to such words under the Act.
- 1.18 “*State*” means the State of New South Wales.
- 1.19 “*Vice President*” means any person properly appointed to perform the duties of a Vice President of the Company.
- 1.20 “*Writing*” means and refers to, unless the contrary intention appears, any expression construed as a reference by printing lithography, photography and/or any other modes of representing or reproducing words in a visible form and all such writing or expressions contained herein shall be interpreted in accordance with the provisions of the *Interpretation Act 1987 (NSW)* and the Act at the date these Articles become binding on the Company.

2. INTERPRETATION

- 2.1 The Company is established for the purposes set out in the Introduction to the Constitution.
- 2.2 All or any decisions of the Board made in writing on the construction or interpretation of the Introduction to the Constitution or the Constitution of the Company, or any By Laws or Rules of the Company made pursuant to them or any matter arising therefrom, shall be final, conclusive and binding on all Members of the Company unless and until any such construction or interpretation is varied revised or altered by:-
- 2.2.1 The Members of the Company in General Meeting; or
- 2.2.2 The Supreme Court of NSW, or the NSW Court of Appeal or the High Court of Australia.
- 2.3 Headings used in the Introduction and the Constitution are to be used as a guide only and do not have interpretative meaning or effect.

3. REPLACEABLE RULES

- 3.1 The Replaceable Rules under the Act are replaced, altered, supplemented or amended by the Constitution to the extent permissible at law under the Act.
- 3.2 Where the Replaceable Rules under the Act have not been replaced, altered, supplemented or amended by this Constitution then they shall subsist and have effect.

4. MEMBERSHIP

4.1 Number of Members

- 4.1.1 The number of Full Members of the Company shall not exceed five hundred and fifty (550) persons.
- 4.1.2 The subscribers to the Articles and/or this Constitution and such other persons as the Board shall admit to Membership in accordance with these regulations shall be Members of the Company.
- 4.1.3 The Board may by Resolution vary the number of Full Members of the Company from time to time.

4.2 Excluded Persons

- 4.2.1 Full Membership shall be available to any person excepting:-
 - 4.2.1.1 a person less than eighteen (18) years of age;
 - 4.2.1.2 any entity other than a natural person; or
 - 4.2.1.3 any person paid a salary or wage as an employee of the Company unless the Board resolves to the contrary.
- 4.2.2 An Affiliate Member need not be a natural person provided that a Nominated Person is accepted by the Board for that Affiliate Member.

4.3 Categories of Membership

- 4.3.1 The Company shall have the following Categories of Membership:-
 - 4.3.1.1 Full Member;
 - 4.3.1.2 Affiliate Member – Trade / Service;
 - 4.3.1.3 Affiliate Member – Supplier;
 - 4.3.1.4 Life Member;
 - 4.3.1.5 Reward Member – retired person from the Industry wishing to remain in contact with the Industry;
 - 4.3.1.6 Student Member;
 - 4.3.1.7 Provisional Member; and
 - 4.3.1.8 Associate Member
- 4.3.2 A Member shall be entitled to admission to Membership in only one (1) of the Categories of Membership above at any one time.
- 4.3.3 A Member may transfer between Categories of Membership with the Consent of the Board.
- 4.3.4 A Member shall not be entitled to transfer Membership to any other person or entity without the written consent of the Board first had and obtained.

4.4 Voting Rights

- 4.4.1 Only Full Members and Life Members shall be entitled to vote at any Meeting of the Company.
- 4.4.2 One (1) vote entitlement per Company or Full Member.

4.5 Applications for Membership

- 4.5.1 Every Applicant for Membership of the Company shall (unless exempted by the Board in writing from so doing) be proposed by another Member of the Company to whom the Applicant shall be personally known.
- 4.5.2 Application for Membership shall be made in writing, shall acknowledge that the Applicant agrees to be bound by the Code of Ethics, be signed by the Applicant and their proposer (if applicable) and shall otherwise be in such form as the Board from time to time prescribes.
- 4.5.3 When any Application has been considered by the Board the Secretary shall forthwith thereafter send to the Applicant written notice of the outcome of that Application.
- 4.5.4 Every Applicant for Membership must at the time the Application is lodged (and thereafter while a Member) be the holder of a Licence issued by the relevant Licensing Authority for their scope of works as a Landscape Contractor or associate or affiliate thereof.
- 4.5.5 Every Application shall be reviewed by a Selection Committee appointed by the Board from time to time and which such Selection Committee shall report to the Board in writing and recommend that the Application be accepted, rejected or deferred.
- 4.5.6 At the next meeting of the Board (or as soon as practicable thereafter) after receipt of the Report of the Selection Committee, such Application shall be considered by the Board, which shall thereupon determine upon the admission or rejection of the Applicant. In no case shall the Board be required to give any reason for the rejection of an Applicant.
- 4.5.7 Any Applicant for Membership is required to pay an Application Fee as a condition of Membership and payable on lodgment of the Application.
- 4.5.8 The Application Fee shall be for such amount as the Board may determine and is a non-refundable payment whether or not the Applicant is admitted to Membership.

4.6 Annual Subscription Fee

- 4.6.1 The Board shall determine an Annual Subscription Fee payable by all Members (excepting Life Members) in each year.
- 4.6.2 The Annual Subscription Fee shall be determined by the Board before the first day of January in each calendar year.
- 4.6.3 The Annual Subscription Fee shall be due and payable on or before the first day of January in each calendar year and shall be paid on or before the thirty-first day of March in each calendar year.
- 4.6.4 The Annual Subscription Fee shall not increase in any calendar year from the previous calendar year by an amount greater than an amount of Five Percent (5%).
- 4.6.5 Should a Member fail to pay the Annual Subscription Fee on or before the first day of April in a calendar year that Member shall be deemed non financial and shall have no entitlement to attend vote or otherwise be involved in any way with a General Meeting of the Company or its business and affairs.
- 4.6.6 The Membership of a non financial Member referred to in Clause 4.6.4 above shall lapse if the Annual Subscription Fee is not paid by the first day of May in that calendar year, time being of the essence.
- 4.6.7 A Member may reapply for Membership at any time.
- 4.6.8 Any Annual Subscription Fee paid is non-refundable in whole or part.
- 4.6.9 A Member may have an Annual Subscription Fee adjusted on a Pro Rata basis if admitted as a Member prior to or subsequent to the first day of January in any calendar year and any decision of the Board in that regard shall be final.

4.7 Resignation of Member

- 4.7.1 A Member may at any time by giving notice in writing to the Secretary resign his or her Membership of the Company, but shall continue liable for any sum not exceeding Two Dollars (\$A2.00) which he or she stands liable for as a Member of the Company under Clause A5.2 of the Introduction to the Constitution of the Company.
- 4.7.2 A member must advise in writing 30 days prior to the renewal of membership if they do not wish to renew their annual membership (being 1st December prior to the year of membership subscription) otherwise the member will be financially liable to the annual subscription fee.

4.8 Register of Members

- 4.8.1 The Secretary shall keep a Register of Members which shall include the following:-
- 4.8.1.1 the name and address of the Member;
 - 4.8.1.2 the date upon which Membership commenced;
 - 4.8.1.3 details of any Licence held by the Member as a Landscaping Contractor or affiliate or otherwise; and
 - 4.8.1.4 such other matters as the Board may from time to time resolve.
- 4.8.2 The Register of Members shall be present and available for inspection by all Members at any General Meeting of the Company.

4.9 Attendance Book

- 4.9.1 The Secretary shall make available an Attendance Book for all Members to sign for their attendance at any meeting of the Company, including Board Meetings if such Member shall be entitled to attend.
- 4.9.2 A signed entry by a Member in the Attendance Book shall be rebuttable evidence of the attendance of that Member at the Meeting recorded in the Attendance Book.

5. RESIGNATION AND TERMINATION OF MEMBERSHIP

- 5.1 Any Member may at any time by giving thirty (30) days notice in writing to the Secretary, resign their Membership from the Company.
- 5.2 Subject to this Constitution every person ceasing to be a Member of the Company shall ipso facto forfeit all right to or claim upon the Company which they would have by reason of Membership and in no case is Membership transferable.
- 5.3 Any Member whose subscriptions are more than three (3) months in arrears or who is in breach of Clause 4.6.6 shall be deemed unfinancial and their Membership terminated.
- 5.4 Upon resignation or termination of Membership the removal of the Member's name from the Register of Members shall be noted in the Company's Journal or other publication by the Board. The terminated or resigned Member is to remove all reference to being a Member of the Company from all stationery, machinery and equipment, advertising and any other place and not advertise any association with the Company.
- 5.5 Any Member ceasing to be eligible as a Member of the Company shall thereupon cease to be a Member of the Company and their name shall be removed from the Register of Members. Subject however that should such Member dispose of a related business the Purchaser of such business after

application for any acceptance as a Member of the Company may be credited with the fee paid by the Member disposing of the business.

6. AFFILIATE MEMBERSHIP

- 6.1 An Affiliate Member may be a person, corporation, partnership or other legal entity (including a Trust), a Statutory or Government Body or instrumentality.
- 6.2 The Affiliate Member shall be represented by a person (**the Nominated Person**) nominated in writing to the Secretary by the Affiliate Member and that Person must be acceptable to the Board.
- 6.3 An Affiliate Member can be a Member in either but not both of the following categories:-
- 6.3.1 Affiliate Member/Trade/Service; or
 - 6.3.2 Affiliate Member/Supplier.
- 6.4 In respect of an Affiliate Member/Supplier, the Nominated Person must be engaged in the supply of goods to the Industry as distinct from the supply of services.
- 6.5 The Board shall in its absolute discretion determine whether a person is or is not entitled to election as a Member under an Affiliate Membership category but in all cases any such Applicant for Affiliate Membership must hold and provide to the Board evidence of holding what the Board regards as the appropriate Licence for their scope of work at the time of nomination.
- 6.6 Affiliate Membership will lapse if the Nominated Person is no longer employed by or directly associated with an Affiliate member and a further Nominated Person is not approved by the Board within twenty-one (21) days from that date.

7. LIFE MEMBERS

- 7.1 A Full Member of the Company may be nominated as a Life Member if, at the time of nomination, that Member has held no less than ten (10) consecutive years of Membership of the Company.
- 7.2 Prior to the next Annual General Meeting in each year, any nomination of a Life Member shall:-
- 7.2.1 be made in writing by a Full Member other than the Full Member proposed for Life Membership;
 - 7.2.2 be submitted to the Secretary no later than one (1) calendar month from the end of each financial year; and

- 7.2.3 include reasons for the nomination so as to enable the Board to make a proper determination.
- 7.3 The nomination shall be considered by the Board who shall thereafter in their absolute discretion recommend the election of that Full Member as a Life Member or refuse to do so.
- 7.4 In determining any nomination of a Full Member as a Life Member the Board shall satisfy itself by majority that the said Member has made outstanding contributions to the Landscaping Industry before recommending the nomination of that Full Member.
- 7.5 A Life Member shall not be required to pay any Annual Membership Fee or any other fee relating to Membership of the Company as and from the date of election as a Life Member.
- 7.6 A Life Member has full voting rights as a Member.
- 7.7 A Life Member shall receive a Membership Card and will be included by the Secretary in a Register of Life Members.
- 7.8 The Board shall not be bound to consider any nomination of a Life Member if any other Life Member has been elected by the Members in the three (3) calendar years immediately preceding the Annual General Meeting at which any nomination is to be considered and determined.
- 7.9 At no time shall the total number of Life Members exceed ten (10).
- 7.10 The recommendations of the Board shall be considered by the immediately following Annual General Meeting and those Members present at the Annual General Meeting and entitled to vote shall vote and determine the election of any Life Member so recommended by the Board by the passing of an Ordinary Resolution.

8. REWARD MEMBERS

- 8.1 Reward membership is for people who have been members of the LNA for at least ten (10) years and who have completed at least fifteen (15) years of active service in the landscaping industry and have retired and wish to maintain their contact with the Industry. They are entitled to all the benefits excluding voting rights.
- 8.2 A Reward Member shall not be required to pay any Annual Membership Fee or any other fee relating to Membership of the Company as and from the date of election as a Reward Member.

9. STUDENT MEMBERS

- 9.1 A person may apply for Membership of the Company as a Student Member if and only if that person at the time of application:

- 9.1.1 is an apprentice in a horticultural trade; or
 - 9.1.2 is an apprentice enrolled for a Landscape Trades Certificate; or
 - 9.1.3 is undergoing a course of study approved by the Board.
- 9.2 There is no age restriction to become a student member.
- 9.3 All rights to Student Membership cease:
- 9.3.1 upon completion of the relevant course of training relied upon for Membership; or
 - 9.3.2 upon ceasing permanently to undergo the relevant course of study.
- 9.4 A Student Member who has completed the relevant course of training relied upon for Membership as a Student Member shall be entitled to apply to become a Full Member after the expiry of one (1) calendar year from the date of completion. During this 12 months they can apply to be a Provisional Member.
- 9.5 Any Application for transfer shall be in writing and be received by the Secretary within the period set out in Clause 9.3 above.

10. PROVISIONAL MEMBERS

- 10.1 A member who is in the initial post graduate phase of a landscape career and who wants to be involved in an introductory way to pursue full membership in the LNA.
- 10.2 This is a transitional membership and would be available for a maximum of 1 year before requiring progression to full membership and allows potential student members to continue their association with the LNA as they establish their businesses or other professional development.
- 10.3 Provisional Members receive no voting rights

11. ASSOCIATE MEMBER

- 11.1 This category is for an employee of a full member as an introduction to the LNA
- 11.2 Associate Members receive no voting rights

12. PATRONS

- 12.1 The Company may from time to time and as it sees fit elect a person to be a Patron.

- 12.2 The number of Patrons so elected in any calendar year immediately following the Annual General Meeting shall be limited to twenty (20) persons.
- 12.3 A person may be nominated as a Patron by a Member at the Annual General Meeting and not otherwise.
- 12.4 Any nomination of a person as a Patron shall be determined by the Board at the Board Meeting immediately following the Annual General Meeting at which such nomination was lodged and the Board shall vote upon such nomination at that Board Meeting.
- 12.5 Any person elected by the Board as a Patron shall be notified in writing as soon as practicable after the Annual General Meeting and that person shall be duly elected as a Patron upon receipt by the Secretary of an acknowledgment in writing of such Notice.

13. GENERAL MEETINGS

13.1 Annual General Meeting

13.1.1. An Annual General Meeting of the Company shall be held in accordance with the provisions of the Act.

13.1.2 The Annual General Meeting in each year shall be held no later than nine (9) calendar months calculated from the end of the preceding financial year.

13.2 Extraordinary General Meeting

13.2.1 All General Meetings, other than Annual General Meetings, shall be called Extraordinary General Meetings.

13.2.2 The Board by Resolution may when it thinks fit, convene an Extraordinary General Meeting, and an Extraordinary General Meeting shall be convened forthwith after such Resolution is made and as otherwise provided by the Act.

13.2.3 The Members may requisition an Extraordinary General Meeting upon no less than thirteen (13) Members requesting in writing to the Secretary the convening of an Extraordinary General Meeting and with such Notice in writing to be provided to the Secretary no less than thirty-five (35) days prior to the date the Extraordinary General Meeting is held.

13.2.4 Any requisition of Members for an Extraordinary General Meeting shall provide notice in writing disclosing:

13.2.4.1 the business of the General Meeting; and

13.2.4.2 the draft Resolutions of the requisitionists to be put to the Extraordinary General Meeting.

13.3 Period of Notice

13.3.1 Subject to the provisions of the Act relating to Special Resolutions and agreements for shorter notice, thirty (30) days' notice at the least (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given) specifying the place the day and the hour of meeting, and in case of special business the general nature of that business, shall be given to such persons as are entitled to receive such notice from the Company for any General Meeting.

13.4 Nature of Business at General Meetings

13.4.1 All business proposed or transacted at an Extraordinary General Meeting shall be special.

13.4.2 All business proposed or transacted at an Annual General Meeting shall be special with the exception of the following:

13.4.2.1 the consideration of the accounts, balance sheets and the report of the Board and its Auditors;

13.4.2.2 the election of the Board Members and any other Officers in the place of those retiring at the Annual General Meeting;

13.4.2.3 the appointment or the removal of the Auditors of the Company; and

13.4.2.4 any other business under the Act capable of being determined by Ordinary Resolution.

14. PROCEEDINGS AT GENERAL MEETINGS

14.1 Business

14.1.1 No business shall be transacted at any General Meeting unless a quorum of Members is present at the time when the meeting proceeds to business.

14.2 Quorum

14.2.1 Unless otherwise provided herein a quorum shall be:

14.2.1.1 Twenty (20) Members present in person; or

14.2.1.2 Twenty (20%) percent of all Members of the Company present in person whichever is the lesser.

14.2.2 A Member intending to vote and also holding a Proxy shall for the purposes of determining a quorum be counted as one (1) person only.

14.3 Adjournment Of Meetings

14.3.1 If within half an hour from the time appointed for the General Meeting a quorum is not present, the meeting, if convened upon the requisition of Members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week at the same time and place, or to such other day and at such other time and place as the Board 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 Members present (being not less than three (3)) shall be a quorum.

14.4 President

14.4.1 The President shall preside as President at every General Meeting of the Company.

14.4.2 If there is no President of the Board, or if the President is not present within fifteen (15) minutes after the time appointed for the holding of the General Meeting or is unwilling to act, the Vice President shall act as President and if the Vice President is not present within fifteen (15) minutes after the time appointed or is unwilling to act then the Members present shall elect one of the Board Members to be President of the General Meeting.

14.4.3 The President may, with the consent of any General Meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the General Meeting from time to time and from place to place, but no business shall be transacted at any adjourned General Meeting other than the business left unfinished at the meeting from which the adjournment took place.

14.4.4 When a meeting is adjourned for thirty (30) days or more, notice of the adjournment meeting shall be given as in the case of the original General Meeting but, save as outlined above, it shall not be necessary to give any notice of an adjournment or the business to be transacted at an adjourned General Meeting.

14.4.5 The President shall be elected for a one (1) year term and serve no more than two (2) consecutive terms.

14.4.6 During any period of absence or incapacity of the President, the Board may elect another Board Member to undertake the duties of the President

14.5 Voting of Members

14.5.1 At any General Meeting a Resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded:-

14.5.1.1 by the President; or

14.5.1.2 by at least two (2) Full Members present in person or by proxy.

14.5.2 Unless a poll is so demanded a declaration by the President that a Resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the Minutes of the proceedings of the Company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the Resolution. The demand for a poll may be withdrawn prior to a declaration by the President.

14.5.3 If a poll is duly demanded it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the President directs, and the result of the poll shall be the Resolution of the General Meeting at which the poll was demanded but a poll demanded on the election of a President or on a question of adjournment shall be taken forthwith.

14.6 Casting Vote of President

14.6.1 In the case of an equality of votes, whether on a show of hands or on a poll, the President of the General Meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a second or casting vote.

14.7 Proxy Voting

14.7.1 A Full Member may vote at an Annual General Meeting (but not otherwise) in person or by proxy and on a show of hands every person present who is a Full Member shall have one (1) vote and on a poll every Full Member present in person or by proxy shall have one (1) vote only.

14.7.2 The instrument appointing a proxy shall be in writing under the hand of the appointor or of his or her attorney duly authorised in writing.

14.7.3 The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

14.7.4 A Full Member shall be entitled to instruct his or her proxy to vote in favour of or against any proposed Resolutions and unless otherwise instructed the proxy may vote as he or she thinks fit. Only a Full Member of the Company shall be entitled to hold a proxy.

14.7.5 The instrument appointing a proxy may be in the following form or in a common or usual form.

Landscape NSW & ACT Ltd

I, [name of Full Member] of [address]

being a Member hereby appoint [name of proxy] of [address] or failing him or her [name of alternate proxy] of [address] as my proxy to vote for me on my behalf at the Annual General Meeting of the Company, to be held on _____ the day of _____, 20____ and at any adjournment thereof.

My proxy is hereby authorised to vote **in favour of** against the following Resolutions:

- 1.
- 2.
- 3.

Signed this _____ day of _____ 20____

Note 1. In the event of the Full Member desiring to vote for or against any Resolution he or she shall instruct his proxy accordingly. Unless otherwise instructed, the proxy may vote as they think fit.

**Strike out whichever is not desired.*

14.7.6 The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority shall be deposited at the registered office of the Company, or at such other place within the State as is specified for that purpose in the notice convening the meeting, not less than forty-eight (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 twenty-four (24) hours before the time appointed for the taking of the poll, and in default the instrument of proxy shall be invalid.

14.7.7 A Full 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 Committee or by his or her trustee or by such other person as properly has the management of his or her estate, and any such Committee, trustee or other person may vote by proxy or attorney.

14.7.8 A vote given in accordance with the terms of an instrument of proxy or attorney shall be valid notwithstanding 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, if no notice in writing of such death unsoundness of mind or revocation as aforesaid has been received by the Company at the registered office

before the commencement of the meeting or adjourned meeting at which the instrument is used.

14.7.9 A Full Member is not entitled to hold more than one (1) Proxy for the purpose of any vote at a General Meeting of the Company.

14.7.10 Notwithstanding the provisions of Clause 14.7.9 above, the President shall be entitled to hold up to and including fifteen (15) Proxy votes and shall be further entitled to count each Proxy vote for the purpose of any Resolution tabled at a General Meeting of the Company.

14.8 Objections to the Right to Vote

14.8.1 Any challenge made as to the right to vote of a Full Member at any meeting shall:-

14.8.1.1 be made by a Full Member entitled to vote at that meeting;

14.8.1.2 be made at that meeting and prior to any vote being taken;
and

14.8.1.3 be determined by the President whose decision shall be final and conclusive.

15. THE BOARD

15.1 The Board of the Company shall consist of no less than five (5) and no more than twelve (12) Members and include:-

15.1.1 One (1) President;

15.1.2 One (1) Vice President;

15.1.3 Nine (9) Board Members; and

15.1.4 The immediate Past President if an election under Clause 15.5.3 is made.

15.2 Election of Board Members

15.2.1 At the Annual General Meeting of the Company in each year the Board shall be elected from among the Full Members.

15.2.2 The Board Members so elected shall hold office until the immediately following Annual General Meeting after their election.

15.2.3 The immediate Past President is deemed elected to the Board without a vote provided that the immediate Past President complies with Clause 15.5.3 following.

15.3 The Company and the Members shall endeavour to apply corporate governance responsibilities by the appointment of Board Members representing at material times a balanced mix of individual skills including financing, commercial, business, community and Landscape Contracting although such skills shall not be mandatory.

15.4 Manner of Election of Board Members

- 15.4.1 The election of Board Members at the Annual General Meeting shall take place in the manner set out in this Clause.
- 15.4.2 Any two (2) Full Members of the Company shall be at liberty to nominate any other Full Member to serve as a Board Member.
- 15.4.3 The nomination, which shall be in writing and signed by the Full Member and his or her proposer and seconder, shall be lodged with the Secretary at least thirty (30) days before the Annual General Meeting at which the election is to take place.
- 15.4.4 A list of the candidates' names in alphabetical order, with the names of the proposer and seconder, shall be posted in a conspicuous place in the registered office of the Company for at least fourteen (14) days immediately preceding the Annual General Meeting.
- 15.4.5 The candidates may nominate for all or any of the positions of President, Vice President and/or Board Member.
- 15.4.6 Should there be only one (1) candidate for the position of President or Vice President then that candidate shall be deemed to be elected unopposed.
- 15.4.7 Should there be candidates for the Board not exceeding nine (9) Members then each candidate shall be deemed elected unopposed.
- 15.4.8 Balloting lists shall be prepared (if necessary) by the Executive Officer and containing the names of candidates in alphabetical order and each Full Member present at the Annual General Meeting shall be entitled to vote for any number of such candidates not exceeding the number of vacancies to the Board.
- 15.4.9 The Board Members shall, with a Full Member's consent, be entitled to add the names of Full Members not already nominated under Clause 15.4.2 to fill up the remaining vacancy or vacancies.
- 15.4.10 Upon a Full Member being elected as either President or Vice President that Full Member shall thereafter be removed as a candidate for election to the Board as a Board Member.
- 15.4.11 The Board shall appoint a Secretary and a Treasurer and those persons may be but do not need to be Full Members of the Company to accept such appointment.
- 15.4.12 Other than for an immediate Past President electing pursuant to Clause 15.5.3 following the Board shall be elected by the Full Members present at the Annual General Meeting and entitled to vote.

15.5 Retirement of Board Members

- 15.5.1 All Board Members (excepting the President should Clause 15.5.3 apply) shall be elected and hold office for a period no greater than one (1) calendar year calculated from the date of the Annual General Meeting at which they were elected.
- 15.5.2 All Board Members shall retire from the Board at that Annual General Meeting but shall be eligible to be re-elected to the Board by the Full Members present at that Annual General Meeting and entitled to vote.
- 15.5.3 The President shall be entitled without a vote by the Full Members to extend his or her term of appointment as President for a further period of no more than twelve (12) calendar months or the date of the immediately following Annual General Meeting (whichever date is the earlier) on the following basis:
- 15.5.3.1 the President shall elect by Notice in writing;
 - 15.5.3.2 the Notice must be provided to the Secretary no less than sixty (60) days prior to the date of the immediately following Annual General Meeting;
 - 15.5.3.3 upon receipt of such written Notice the President shall immediately thereafter be deemed to remain in office as President for the term specified above; and
 - 15.5.3.4 upon receipt of a Notice from the President under Clause 15.5.3.1 above there shall be no election of a President at the following Annual General Meeting.

15.6 Vacancy of Board Member

- 15.6.1. The office of a Board Member shall become vacant if that Member:-
- 15.6.1.1 ceases to be a Board Member by virtue of the Act;
 - 15.6.1.2 becomes bankrupt or makes any arrangement or composition with his or her creditors generally;
 - 15.6.1.3 becomes prohibited from being a director of a company by reason of any order made under the Act;
 - 15.6.1.4 becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
 - 15.6.1.5 resigns his or her office by notice in writing to the Company;
 - 15.6.1.6 for more than three (3) months is absent without permission of the Board from meetings of the Board held during that period;
 - 15.6.1.7 ceases to be a Member of the Company;
 - 15.6.1.8 is directly or indirectly interested in any Contract or proposed Contract with the Company provided that the office of that Board Member shall not be vacated by reason of that person's Membership in any Corporation, Society, or Association which has entered into or proposes to enter into a Contract with a Company if and only if the Board Member

shall have first declared the nature of his or her interest in the manner expressly required by the Constitution under Clause 12.12 or the Act or if the interest is one that does not need to be disclosed pursuant to Section 191 of the Act; or
15.6.1.9 ceases to hold a Licence under Clause 4.3.4 while a Full Member.

15.6.2 The Board Members shall have power at any time, and from time to time, to appoint any Full Member to the Board either to fill a casual vacancy or as an addition to the existing Board Members but so that the total number of Board Members shall not at any time exceed the number fixed in accordance with these Regulations and any Board Member so appointed shall hold office only until the next following Annual General Meeting.

15.7 Forfeiture of Office

15.7.1 The position of any Board Member immediately becomes vacant if the Member:-

- 15.7.1.1 By notice in writing resigns from the Board;
- 15.7.1.2 Becomes bankrupt or insolvent or makes an assignment for the benefit of its creditors or compromises with its creditors;
- 15.7.1.3 Is a representative of a member which is in the course of liquidation, otherwise than for the purpose of reconstruction;
- 15.7.1.4 Deliberately infringes these Rules or the code of conduct and after due consideration the Association resolves that the position should become vacant; or
- 15.7.1.5 Is absent from four (4) Board Meetings during any elected term or three (3) consecutive meetings of the Board without approved leave of absence from the Board. (*This is in conflict with clause 14.6.1.6*)

15.8 Quorum for Board Meetings

15.8.1 Unless otherwise provided herein a Quorum for any Board Meeting shall be five (5) Board Members present in person.

15.9 Rules for Telecommunication Meeting of the Board

15.9.1 For the purpose of these Rules the contemporaneous linking together in oral communication by telephone, audio-visual or other instantaneous means ("telecommunication meeting") of a number of the Board Members not being less than a quorum is deemed to constitute a meeting of the Board Members.

15.9.2 All the provisions in these Rules relating to a meeting of the Board Members apply to a telecommunications meeting in so far as they are not inconsistent with the provisions of this Rule

15.9.3. The following provisions apply to a telecommunication meeting:-

- 15.9.3.1 All the Board Members for the time being entitled to receive notice of a meeting of the Board Members are entitled to notice of a telecommunications meeting;
- 15.9.3.2 All the Board Members participating in the meeting shall be linked by telephone, audio-visual or other instantaneous means for the purpose of the telecommunication meeting;
- 15.9.3.3 Notice of the meeting may be given by telephone or other electronic means;
- 15.9.3.4 Each of the Board Members taking part in the meeting shall be able to hear and be heard by each of the other Board Members taking part at the commencement of the meeting and each Board Member so taking part is deemed for the purpose of these Rules to be present at the meeting; and
- 15.9.3.5 At the commencement of the meeting each Board Member shall announce his presence to all other Board Members taking part in the meeting.

15.9.4 One of the Board Members present or the Executive Officer at a telecommunication meeting shall take minutes of the meeting.

15.9.5 A Board Member may not leave a telecommunications meeting by disconnecting his telephone, audio-visual or other communication equipment unless he has previously notified the Chairman of the meeting;

15.9.6 A Board Member is conclusively presumed to have been present and to have formed part of a quorum at all times during a telecommunications meeting unless that Board Member has previously obtained express consent of the President to leave that meeting.

15.9.7 A minute of the proceedings of a telecommunications meeting is sufficient evidence of the proceedings and of the observance of all necessary formalities if the minute is certified to be a correct minute by the chairperson of that meeting.

15.9.8 The above methodology or part of should only be used in extreme circumstances, eg where a Board requires additional members' input or vote (to form a quorum) to pass a resolution the ability to contact by telecommunication could be utilized.

15.10 Circulating Resolutions

15.10.1 Notwithstanding any contrary provisions, the Board may pass Resolutions from time to time in accordance with Clause 24.1 following.

16. FURTHER POWERS AND DUTIES OF THE BOARD MEMBERS

- 16.1 The Board may meet together for the dispatch of business, adjourn and otherwise regulate its meetings as it thinks fit and a Board Member may at any time and the Secretary shall on the requisition of any Board Member summon a meeting of the Board.
- 16.2 Subject to these Regulations questions arising at any meeting of the Board Members shall be decided by a majority of votes and a determination by a majority of the Board Members shall for all purposes be deemed a determination of the Board Members. In case of an equality of votes the President of the meeting shall have a second or casting vote.
- 16.3 A Board Member shall not vote in respect of any contract or proposed contract with the Company in which they are interested, or any matter arising therefrom (unless firstly complying with Clause 16.12 following) and if that Board Member does so vote his or her vote shall not be counted.
- 16.4 The Quorum necessary for the transaction of the business of the Board may be varied by a Resolution of the Board but at no time shall the Quorum be less than three (3).
- 16.5 The continuing Board Members may act notwithstanding any vacancy in the Board Members, but if and so long as their number is reduced below the number fixed by or pursuant to these Regulations as the necessary quorum of the Board Members, the continuing Members may act for the purpose of increasing the number of Board Members to that number, or of summoning a General Meeting of the Company, but for no other purpose.
- 16.6 The person elected as President shall preside as Chairman at every meeting of the Board, or if there is no such person, or if at any meeting he or she is not present within ten (10) minutes after the time appointed for holding the meeting, the Vice President shall preside and in his or her absence the Board Members may choose one of their number to be Chairman of the Meeting.
- 16.7 The Board Members may delegate any of its powers to Sub-Committees consisting of such Board Member or Board Members as they think fit; any Sub-Committee so formed shall in the exercise of the powers so delegated conform to any Regulations that may be imposed on it by the Board Members and any Sub-Committee shall report to the Board in such manner as the Board may from time to time direct.

- 16.8 The Board shall appoint a Chairman of any Sub-Committee and if at any meeting of a Sub-Committee the Chairman is not present within ten (10) minutes after the time appointed for holding the meeting, the Board Members present and serving on that Sub-Committee may choose one of their number to be Chairman of that Sub-Committee meeting.
- 16.9 A Sub-Committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the Board Members present and serving on that Sub-Committee, and in the case of an equality of votes the Chairman at that meeting shall have a second or casting vote.
- 16.10 All acts done by any meeting of the Board Members or of a Sub-Committee shall, notwithstanding that it is afterward discovered that there was some defect in the appointment of any Board Member, or that the Board Members or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Board Member.

16.11 Miscellaneous Powers

- 16.11.1 A Resolution in writing signed by all the Board Members for the time being entitled to receive notice of a meeting of Board Members shall be as valid and effectual as if it has been passed at a meeting of Board Members duly convened and held; any such Resolution may consist of several documents in like form, each signed by one or more Board Members.
- 16.11.2 The Board is to have power to make such By-Laws as are not inconsistent with the Constitution and as in the opinion of the Board are necessary and desirable for the proper control, administration and management of the Company and all matters relating to the finances, affairs, interests and property of the Company.
- 16.11.3 Any By-Law made by the Board under the Constitution shall come into effect and have full force and authority as a By-Law of the Company immediately upon written notice of such By-Law or By-Laws being placed upon a Notice Board at the registered office of the Company.

16.12 Material Interest of a Board Member

- 16.12.1 If a Board Member has a material and personal interest in any matter that relates to the affairs of the Company and:-
- 16.12.1.1 that Board Member discloses at a meeting of the Board the true nature and extent of the interest and its relationship to the affairs of the Company;
- 16.12.1.2 that interest is one which does not need to be disclosed under Section 191 of *the Act*;

Then and only then:-

- (a) that Board Member may vote on matters that relate to the interest; and
- (b) any transactions that relate to that interest may proceed without impediment; and
- (c) that Board Member may retain benefits under the interest or transaction notwithstanding that the Board Member has such interest; and
- (d) the Company cannot avoid the transaction solely due to the existence of that interest.

16.12.2 Should disclosure be required under *Section 191 of the Act* then Clause 16.12.1.1 shall apply only if the disclosure is made by the Board Member prior to the transaction being entered into with the Company.

16.13 Negotiable Instruments

16.13.1 The Board shall authorise two (2) persons (at least one of whom shall be a Board Member) to sign, accept, draw, endorse or otherwise execute a negotiable instrument of the Company and the persons so authorised shall have power to deal with all negotiable instruments of the Company.

16.13.2 The Board may determine the manner in which a negotiable instrument is to be signed, drawn, accepted, endorsed or otherwise executed and otherwise in accordance with the Delegation's Manual.

16.13.3 The Board may from time to time withdraw any authority given to a Board Member in relation to a negotiable instrument of the Company without notice.

16.14 Resignation of Board Member

16.14.1 A Board Member may resign as a Board Member at any time by first giving a written Notice of Resignation to the Company at its registered office.

16.14.2 Any written notice of resignation of a Board Member shall have effect as and from the date and time of receipt at the registered office of the Company.

16.15 Remuneration of Board Members

16.15.1 The President is entitled to be paid an honorarium of up to Two thousand Dollars (\$2,000.00) per calendar year (payable to the President forthwith at the end of the term in each calendar year) to

cover incidental expenditure, ie the cost of travel to meetings, etc only if a Resolution of the Board, unanimously made, is passed to that effect.

- 16.15.2 The honorarium paid to the President may only be varied by a Special Resolution of the Full Members in General Meeting.
- 16.15.3 The Board Members shall be entitled to no remuneration save for the reimbursement of actual expenses incurred (in the opinion of the Board) in connection with the business of the Company.
- 16.15.4 The President shall not be allowed to vote upon any Resolution relating to remuneration of the President.

16.16 Disciplinary Procedures

- 16.16.1 The Board shall have full power vested in it to deal with any conduct of a Member which in the opinion of the Board may be unbecoming of a Member or otherwise prejudicial to the interests of the Company.
- 16.16.2 Should any Member willfully refuse or neglect to comply with any of the provisions of the Constitution or (in the opinion of the Board) be guilty of any conduct unbecoming of a Member or otherwise likely to prejudice the interests of the Company, the Board shall have full power to:-
 - 16.16.2.1 reprimand;
 - 16.16.2.2 suspend (for such period as the Board in its absolute discretion considers appropriate);
 - 16.16.2.3 counsel; and
 - 16.16.2.4 expel or accept the resignation of the Member.
- 16.16.3 Prior to passing any Resolution of the Board against any Member herein the Board shall at least one (1) week prior to the meeting of the Board at which any Charge is to be determined notify the Member in writing by ordinary pre-paid post as to:-
 - 16.16.3.1 the substantive facts and circumstances alleged against him or her;
 - 16.16.3.2 the proposed or intended Resolution of the Board if the Charge is maintained and the Board passes such proposed or intended Resolution;
 - 16.16.3.3 the date and time of the Board Meeting;
 - 16.16.3.4 the right of the Member to personally attend any Hearing before the Board;
 - 16.16.3.5 the right of the Member to answer any Charge against him or her by a reply in writing as well as a right to attend in person;

- 16.16.3.6 the fact that the Member shall not be entitled to have any legal or professional representative present at the Board Meeting without the express written consent of the Board first being had and obtained;
 - 16.16.3.7 the right of the Member to call evidence and witnesses (if the case so requires) to answer any Charge; and
 - 16.16.3.8 such other matters as the Board in its absolute discretion may see fit.
- 16.16.4 Any Notice, answer or representation of the Member must be lodged with the Secretary at least twenty-four (24) hours prior to the time stated for commencement of the Board Meeting at which the Resolution for his or her discipline is to be considered by the Board.
- 16.16.5 The Board Members shall vote at such meeting by secret ballot and with such secret ballot to be conducted in such manner as the Board may decide in its absolute discretion.
- 16.16.6 No Resolution of the Board to discipline the Member in any manner set out in Clause 16.16.2 above shall be deemed to be passed unless at least a majority of the Board Members present and voting are in favour of such Resolution.
- 16.16.7 If the Member elects not to or fails to attend the Board Meeting at which the Charge or Complaint is to be heard and dealt with then the Board may pass a Resolution on the evidence then before it including any representations made in writing by the Member charged and on any other evidence available to the Board at the time of the meeting.
- 16.16.8 The provisions of the *Evidence Act (NSW)* shall not apply to any hearing by the Board herein.
- 16.16.9 Any Resolution of the Board herein shall be final and binding upon the Member and the Board shall not be required to give or assign any reasons for its decision and Resolution.
- 16.16.10 Notwithstanding any provision herein to the contrary the Board shall have the power to delegate to the Secretary of the Company the power to suspend any Member for a period not exceeding one (1) calendar month calculated from the date that any Charge is laid and pending the Hearing of such Charge by the Board.
- 16.17 Right of Appeal of Disciplined Member**
- 16.17.1 A Member may appeal against a Resolution of the Board under Clause 16.16 by lodging with the Secretary a Notice to that effect no later than seven (7) days after written notice of the Resolution of the Board is served on the Member.

- 16.17.2 The Notice shall contain or be accompanied by a Statement as to the grounds upon which the Member intends to rely for the purpose of his or her appeal.
- 16.17.3 On receipt of a Notice from the Member complying with the above the Secretary shall forthwith notify the Board which is to then convene a General Meeting of the Company to be held within twenty-eight (28) days from the date of receipt of the Member's Notice by the Secretary.
- 16.17.4 At the General Meeting of the Company so convened:-
- 16.17.4.1 No business other than the question of the Appeal of the Member is to be transacted;
 - 16.17.4.2 The Member and the Board must be given (in the opinion solely of the Board) the opportunity to state the grounds of Appeal and their respective cases orally or in writing or both;
 - 16.17.4.3 The Members present at the General Meeting and entitled to vote are to vote by secret ballot solely on the question of whether the Resolution of the Board should be confirmed or revoked.
- 16.17.5 Any Resolution of the General Meeting either confirming or revoking (as the case may be) the Resolution of the Board shall be an ordinary Resolution and the Board Members and the Member appealing shall be entitled to vote.

17. SECRETARY

- 17.1 The Secretary shall in accordance with the Act be appointed by the Board Members for such term, at such remuneration and upon such conditions as it thinks fit; and any Secretary so appointed may be removed by them. Nothing herein shall prevent the Board Members from appointing a Member of the Company as Honorary Secretary and any Member so appointed shall forthwith become an officer of the Company, if not already a Board Member.

18. SEAL

- 18.1 The Board Members shall provide for the safe custody of the seal, which shall only be used by the authority of the Board Members or of a Sub-Committee of Board Members and every instrument to which the seal is affixed shall be signed by a Member of the Board and shall be countersigned by the Secretary or by a second Board Member or by some other person appointed by the Board for the purpose.

19. ACCOUNTS

- 19.1 The Board Members shall cause proper accounting and other records to be kept and shall distribute copies of the Financial Statements and other records according to law (including every document required by law to be attached thereto) accompanied by a copy of the Auditors report thereon only if required under the Act, provided however, that the Board Members shall cause to be made out and laid before each Annual General Meeting a Financial Statement made up to date not more than two (2) months before the date of the meeting.
- 19.2 The Board Members shall from time to time determine in accordance with clause 7 of the Introduction to the Constitution at what times and places and under what conditions or regulations the accounting and other records of the Company shall be open to the inspection of Members not being Board Members, and no Member (not being a Board Member) shall have any right of inspecting any account or book or paper of the Company except:-
- 19.2.1 as conferred by statute; or
 - 19.2.2 by Clause 7 of the Introduction; or
 - 19.2.3 pursuant to Clause 21 of the Constitution.

20. AUDIT

- 20.1 A properly qualified Auditor or Auditors shall be appointed and his, her or their remuneration fixed and duties regulated in accordance with the Act and Clause A7 of the Introduction to the Constitution.

21. NOTICES

- 21.1 A notice may be given by the Company to any Member either personally or by sending it by post to him at his her or their registered address, or (if he has no registered address within the State) to the address, if any, within the State supplied by him to the Company for the giving of notices to him her or them. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying, and posting a letter containing the notice, and to have been effected in the case of a notice of a meeting on the day after the date of its posting, and in any other case at the time at which the letter would be delivered in the ordinary course of post.
- 21.2 Notice of every General Meeting shall be given in any manner hereinbefore authorised to:
- 21.2.1 every Member except those Members who (having no registered address within the State) have not supplied to the Company an address within the State for the giving of notices to them; and
 - 21.2.2 the Auditor or Auditors for the time being of the Company.
- 21.3 No other person shall be entitled to receive notices of General Meetings.

21.4 A Notice of any Meeting under the Constitution is deemed to be received:

- 21.4.1 if sent by post at the expiration of two (2) days after the date it is posted;
- 21.4.2 if sent by facsimile, e-mail or otherwise electronic means, on the immediately following business day after the day upon which the notice is sent.

21.5 **Address for Notices to Members**

- 21.5.1 Any Notice to a Member shall be sent to the address recorded in the Register of Members at the time the Notice is sent.

22. **INDEMNITY**

- 22.1 Every Board Member, auditor, secretary and other officer for the time being of the Company shall be indemnified out of the assets of the Company against any liability arising out of the execution of the duties of his her or their office which is incurred by him her or them in defending any proceedings, whether civil or criminal, in which judgment is given in his her or their favour or in which he or she is acquitted or in connection with any Application under the Act in which relief is granted to him her or them by the Court in respect of any negligence default breach of duty or breach of trust.

23. **INSPECTION OF BOOKS OF THE COMPANY**

- 23.1 A Member shall be entitled to inspect the books and financial records of the Company if and only if:-
 - 23.1.1 an ordinary Resolution to that effect is passed at a General Meeting;
or
 - 23.1.2 the Board by Resolution authorises such inspection; or
 - 23.1.3 the Member seeking inspection provides notice in writing to the Board identifying the dominant purpose of inspection and the Board subsequently passes a Resolution authorising inspection by that Member.

24. **MEETINGS OF THE BOARD**

24.1 **Resolutions**

- 24.1.2 The Board may pass a Resolution without a meeting of the Board being held if and only if:-
 - 24.1.2.1 all Board Members entitled to vote upon that Resolution sign a document to the effect that they are in favour of the Resolution; and

24.1.2.2 return that document to the Secretary no less than twenty-four (24) hours from the time of receipt of that document.

24.2 **Passing of Resolutions**

24.2.1 Any Resolution of the Board shall be passed when a majority of Board Members vote in favour of the Resolution or when a majority sign a document in accordance with Clause 15.1 above.

24.2.2 The President has a casting vote on any Resolution of the Board howsoever made in addition to any vote that the President may have in his or her capacity as a Board Member.

25. **AMENDMENTS OR ALTERATIONS TO THE CONSTITUTION**

25.1 The Constitution may be amended altered modified or repealed only by the passing of a Special Resolution of the Members in General Meeting.

26. **EXECUTIVE OFFICER**

26.1 The Board may pass a Resolution and do all other things necessary to empower the Executive Officer of the Company to employ, regulate, appoint and terminate the employment of all employees of the Company, with the approval in writing of the President and Board.

26.2 The Executive Officer shall abide by any Resolution of the Board.

26.3 The primary role of the Executive Officer is to enforce the Board's directives.

27. **SEVERABILITY**

27.1 Should any part of the Constitution be invalid or be unenforceable then it may be excised from the Constitution without affecting the validity and applicability of the balance of the Constitution then remaining.