

Constitution

Wambo 2 Project Co Pty Ltd

ACN 661 002 571

MinterEllison

L A W Y E R S

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Definitions and interpretation

1. Defined terms

1.1 In this Constitution:

Affiliate means:

- (a) any entity (such as a body corporate, partnership or trust) which a Director or Relative controls (within the meaning of section 50AA of the Corporations Act) and has the capacity to determine the outcome of decisions about the Company's financial or other operating policies; or
- (b) a Relative of the Director or the Director's spouse or a body corporate in which a Director or any Relative own or hold in aggregate more than 20% of the voting shares (as defined in the Corporations Act).

Auditor means the Company's auditor, if any.

Auditor-General Act means the *Auditor-General Act 2009* (Qld) as modified or amended from time to time.

Board means the Directors acting collectively as a board in accordance with this Constitution.

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

Company means Wambo 2 Project Co Pty Ltd ACN 661 002 571.

Constitution means the constitution of the Company as amended from time to time.

Corporate Plan has the meaning given in the GOC Act.

Corporations Act means the *Corporations Act 2001* (Cth) as modified or amended from time to time .

De facto Spouse has the meaning given by the Corporations Act.

Director includes any person occupying the position of director of the Company.

Financial Year means the financial year of the Company as determined by the Board from time to time.

GOC has the meaning given in the GOC Act.

GOC Act means the *Government Owned Corporations Act 1993* (Qld) and its Regulations as modified or amended from time to time.

GOC Minister has the meaning given in the GOC Act.

GST has the meaning given in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) as modified or amended from time to time.

Holding Company means the GOC of which the Company is a subsidiary (as that term is defined in the GOC Act).

Indirect Interest means an interest of a Relative of a Director or an Affiliate of a Director or Affiliate of a Relative of a Director.

- 16.3 While the Company is a subsidiary of the Holding Company, a person may only be appointed as a Director if they are a director of the Holding Company, or if prior approval has been given in writing by the Shareholding Ministers.

17. Appointment of Directors

Subject to rule 16.3 the Company may by resolution passed at a general meeting:

- (a) appoint any person as a Director to fill a vacancy or as an addition to the existing Directors;
- (b) remove any Director; and
- (c) appoint another person in the Director's place.

18. Period of office

A Director will continue to hold office until he or she dies or until his or her office is vacated under rule 19.

19. Vacation of office

The office of a Director immediately becomes vacant if the Director's appointment expires, or the Director:

- (a) being a director of the Holding Company, ceases to be a director of the Holding Company;
- (b) is prohibited by the Corporations Act or order made under the Corporations Act from holding office or continuing as a Director;
- (c) cannot manage the Company because of his or her mental incapacity and is a person whose estate or property has had a personal representative or trustee appointed to administer it;
- (d) resigns by notice in writing to the Company; or
- (e) is removed from office under rule 17(b).

20. Remuneration of Directors

The Directors will not be entitled to such remuneration for their service as a Director of the Company except as approved by the Shareholding Ministers or (if the Company has ceased to be a subsidiary of the Holding Company) the Company in general meeting.

21. Other payments to Directors

- 21.1 Subject to the prior approval of the Shareholding Ministers, a Director who is called upon by the Board to perform extra services or to make special exertions for the purposes of the Company may be paid a fixed sum by the Company, as set by the Board, with the approval of the Holding Company, for doing so.
- 21.2 The Directors may be paid all reasonable travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the Board or any committee of the Board or general meetings of the Company or otherwise in connection with business of the Company.

Powers of the Board

22. The Board to manage Company

- 22.1 Subject to this Constitution, the Corporations Act and the GOC Act, the business of the Company is managed by the Board who may exercise all powers of the Company that this Constitution or the Corporations Act do not require to be exercised by the Company in general meeting.
- 22.2 Rule 22.1 is subject to:
- (a) any prior undertaking the Holding Company has given to the Shareholding Ministers in its Statement of Corporate Intent and the Holding Company's Corporate Plan;
 - (b) while the Company is a subsidiary of the Holding Company, any limitations notified from time to time by the Holding Company to the Company in writing; and
 - (c) Rule 22.4.
- 22.3 So long as the Company is wholly owned by the Holding Company, each Director is authorised to act in the best interests of the Holding Company.
- 22.4 So long as the Company is wholly owned by the Holding Company:
- (a) the State of Queensland does not underwrite any liability of the Company except under a guarantee approved by the Shareholding Ministers; and
 - (b) no liability of the Company passes to the Holding Company or the State of Queensland without the prior written approval of the Shareholding Ministers.

23. Delegation

- 23.1 The Board may delegate any of their Directors' powers as permitted by the Corporations Act and the GOC Act, including delegation to a committee or committees of Directors, on the terms and subject to any restrictions that the Board may decide.
- 23.2 Subject to the terms on which a power of the Board is delegated to a committee, the meetings and proceedings of that committee are (to the greatest extent practical) governed by the rules of this Constitution which regulate the meetings and proceedings of the Board.
- 23.3 The Board may revoke any delegation of their powers at any time.

Duties and interests of Directors

24. Responsibilities under the Corporations Act and the GOC Act

The roles, responsibilities and duties of the Board include those required of them under the Corporations Act and the GOC Act.

25. Director can hold other offices

A Director may:

- (a) hold any office or place of profit or employment other than that of Auditor or a Public Service Officer; or

Chief executive officer

35. Appointment

The chief executive officer, if any, must be appointed by the Board with the prior written approval of the Shareholding Ministers.

36. Terms and conditions

The terms and conditions of employment (including remuneration) of the chief executive officer of the Company shall be determined by the Board.

Secretary

37. Appointment

- 37.1 While the Company is a subsidiary of the Holding Company, the Secretary of the Company (if any) must be the Secretary of the Holding Company, appointed in accordance with the GOC Act.
- 37.2 If the Company ceases to be a subsidiary of the Holding Company then the Board may appoint one or more persons as a Secretary.

38. Removal

- 38.1 A person automatically ceases to be a Secretary if the person is:
- (a) not permitted by the Corporations Act (or by an order made under the Corporations Act) to be a secretary of a company;
 - (b) disqualified from managing corporations under Part 2D.6 of the Corporations Act and is not given leave or permission to manage the Company under section 206F or section 206G of the Corporations Act;
 - (c) of unsound mind or physically or mentally incapable of performing the functions of that office;
 - (d) resigns by notice in writing to the Company; or
 - (e) removed from office under rule 38.2.
- 38.2 The Board may remove a person appointed as Secretary at any time if:
- (a) while the Company is a subsidiary of the Holding Company, the Secretary ceases to be the Secretary of the Holding Company; or
 - (b) if the Company ceases to be a subsidiary of the Holding Company, a majority of Directors entitled to vote on the matter pass a resolution to that effect.

- (b) if it arrives during business hours on a particular day, on that day or, if it arrives after business hours on a particular day, on the next day.

Financial reports and audit

43. Financial records

The Board must cause the Company to keep written financial records that:

- (a) correctly record and explain its transactions and financial position and performance (including transactions undertaken as a trustee); and
 - (b) would enable true and fair financial statements to be prepared and audited,
- and must allow a Director and the Auditor to inspect those records at all reasonable times.

44. Reports

- 44.1 The Board must cause the Company to provide the Holding Company with all necessary information for the Holding Company to make a quarterly report to the Shareholding Ministers on the operations of the Company in accordance with the GOC Act.
- 44.2 The Board must provide information (including information on the operations, financial performance and financial position) of the Company and its subsidiaries in accordance with the GOC Act.

45. Audit obligation

If required by the GOC Act or the Corporations Act, the Board must cause the Company's financial report for each Financial Year to be audited and obtain an auditor's report.

46. Auditor

The Queensland Auditor General will be the Auditor to the extent required under the Auditor-General Act. The remuneration of the Auditor will be in accordance with the Auditor-General Act.

Amendment of Constitution

47. Amendment of Constitution

Subject to the Shareholding Ministers giving their prior approval in writing, the Constitution may be amended in any way permitted by the Corporations Act.

