

CORPORATIONS ACT, 2001
CONSTITUTION
OF A COMPANY LIMITED BY GUARANTEE

NEW SOUTH WALES
IRRIGATORS' COUNCIL LIMITED

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1 CAPACITY

Subject to the Corporations Act, the Company has the legal capacity of a natural person including the capacity to exercise the powers set out in section 124 of the Corporations Act. It is the Members' intention that this Constitution will not restrict or prohibit the exercise by the Company of any of these powers except as expressly stated.

2 NOT FOR PERSONAL PROFIT

The income and property of the Company must be applied solely towards the promotion of the objects of the Company as set out in this Constitution and no portion of it is to be paid or transferred directly or indirectly by way of profit to Members. This does not prevent the payment in good faith:

- (a) of remuneration to any officers or servants of the Company in return for any services rendered to the Company, if such payment is approved by the Directors;
- (b) of remuneration to any Member in return for any services rendered to the Company, if such payment is approved by the Directors;
- (c) for goods supplied in the ordinary and usual course of business;
- (d) of interest at a reasonable and proper rate on money borrowed from any Member;
- (e) of reasonable and proper rent for premises leased or licensed by any Member to the Company; or
- (f) of annual fees to the Chairman as remuneration for services rendered, provided that the amount is reasonable in the circumstances and the amount has been approved by the Members of the Board of Directors.

3 OBJECTS

The Company is established with the following objects:

- (a) to promote and contribute to the efficiency and profitability of New South Wales Irrigators and the Australian Irrigation Industry;
- (b) to initiate and develop projects and policies the purpose of which is to benefit Irrigators and the Irrigation Industry and to promote those projects and policies with a view to having them adopted or ratified by State and Federal governments, statutory authorities and other groups and organisations;
- (c) to represent the interests and make known the opinions of Irrigators and the Irrigation Industry to State and Federal governments, statutory authorities, the public and other groups and organisations;
- (d) to promote communication and cooperation between the various representatives of the Irrigation Industry and between those representatives and State and Federal governments, statutory authorities, the public and other groups and organisations;
- (e) to encourage better regulation and more efficient use of ground and surface water;

- (f) to initiate, encourage and direct research and development for the benefit of Irrigators and the Irrigation Industry;
- (g) to promote a better understanding and knowledge of irrigation and the Irrigation Industry and of the contribution made by irrigation and the Irrigation Industry to the NSW and Australian economies;
- (h) to provide and distribute information for the purpose of benefiting Irrigators and the Irrigation Industry and carrying out the above objects;
- (i) to do all other lawful things as are incidental or conducive to the attainment of these objects or any of them or which may be calculated to advance directly or indirectly the interests of the Company.

4 LIMITED LIABILITY

The liability of the Members is limited.

5 MEMBERS GUARANTEE

Every Member undertakes to contribute an amount not exceeding \$100.00 to the property of the Company in the event of its being wound up while that person is a Member or within one year afterwards for:

- (a) payment of the debts and liabilities of the Company contracted before the time when that Member ceased to be a Member;
- (b) the costs, charges and expenses of winding up; and
- (c) for an adjustment of the rights of contributories among themselves.

6 ANNUAL LEVY

- (a) The Annual Levy payable by each class of Members of the Company shall be prescribed by the Board from time to time.
- (b) The Members shall pay the Annual Levy in such manner as prescribed by the Board from time to time.

7 MEMBERS

7.1 Initial Members

The membership of the Company is initially divided into "A" Class Members and "B" Class Members. The first Members of each class will be each of the entities that appear in the **schedule**.

7.2 Eligibility to be a Member

- (a) An entity is eligible to be admitted as an "A" Class Member if it:
 - (i) is incorporated;

- (ii) has paid the Annual Levy for the year in which it is seeking Membership;
 - (iii) has consented to becoming a Member by written notice to the Secretary in the form prescribed by the Board from time to time; and
 - (iv) has Objectives compatible with the Company's.
- (b) A person or entity is eligible to be admitted as a "B" Class Member if the relevant Annual Levy has been paid.

7.3 Becoming a Member

- (a) An entity that is not a Member at the time of incorporation of the Company (or who was a Member at that time but has since ceased to be a Member) must not be admitted to membership unless:
- (i) the entity is eligible to become a Member in accordance with the Constitution; and
 - (ii) the entity's admission as a Member is approved by the Company.
- (b) The Council will meet at such times as it deems necessary to consider applications for Membership.
- (c) An entity becomes a Member and is entitled to exercise the rights of membership when its name is entered in the Register.
- (d) If the Council resolves not to admit an entity, which is eligible for membership under this Constitution, as a Member, the Secretary must as soon as possible:
- (i) notify that entity in writing of the decision; and
 - (ii) refund the Annual Levy (if any) paid by the entity to the entity.

7.4 Register of Members

The Secretary must keep the Register at the Registered Office and must enter in the Register:

- (a) the name and address of each Member;
- (b) the date on which each Member becomes a Member;
- (c) the class of membership for which the Member is qualified;
- (d) the name and address of the Member's Delegate;
- (e) the date on which any Member ceases to be a Member or alters their class of membership.

The Register must not be used for any other purpose and is to be available for inspection free of charge by any Member upon request.

7.5 Ceasing to be a Member

A Member ceases to be a Member of the Company and the Member's name and the name of Member's Delegate will be deleted from the Register of Members if:

- (a) the Member resigns as a Member in accordance with **clause 7.6**;
- (b) the Member becomes insolvent;
- (c) the Member is expelled from the Company in accordance with **clause 7.8**;
- (d) the Member is given a Termination Notice; or
- (e) the Board resolves in its discretion to cancel the Membership of a Member where that Member's Annual Levy or Annual Subscription remains unpaid.

7.6 Resignation

A Member may resign as a Member of the Company at any time by giving written notice to the Secretary. The Member's resignation will take effect from the date it is received by the Company. The Member will remain liable to the Company for all debts due by that Member to the Company.

7.7 Classes of Members

Subject to the Constitution and the Corporations Act, the Board may:

- (a) establish any new class of Members and prescribe the qualifications, rights, restrictions and obligations of Members in that class; and
- (b) vary or abrogate the qualifications, rights, restrictions or obligations of Members in any new or existing class, with the consent in writing of three-quarters of those Members, or with the sanction of a special resolution passed at a separate meeting of those Members, and the provisions of the Constitution relating to general meetings apply so far as they are capable of application and with the necessary changes to every such separate meeting.
- (c) transfer a Member, with the Member's written consent, from membership in one class to membership in another class.

7.8 Disciplining Members

Subject to this Constitution and the Corporations Act, the Board has the power to censure, suspend or expel a Member from the Company if the Member:

- (a) wilfully refuses or neglects to comply with the provisions of the Constitution;
- (b) is guilty of any conduct which in the opinion of the Directors is unbecoming of a Member or prejudicial to the interests, image or welfare of the Company; or
- (c) fails to pay to the Company any moneys due by the Member to the Company after due notice has been given (together "Disciplining Events").

7.9 Disciplinary Hearing

Where the Board is of the opinion that a Member has committed a Disciplining Event, the Board may by resolution require the Member's Delegate to attend a Disciplinary Hearing and show cause why that Member should not be censured, suspended or expelled.

7.10 Notice of Disciplinary Hearing

Where the Board passes a resolution convening a Disciplinary Hearing, the Secretary must as soon as practicable cause a notice in writing to be served on the Member:

- (a) stating the date, time and place of the Disciplinary Hearing;
- (b) setting out the resolution of the Company and the grounds on which it is based;
- (c) informing the Member that the Member's Delegate may attend and speak at that meeting and submit to the Board at or prior to that meeting written submissions on the resolution.

7.11 Proceedings at Disciplinary Hearing

- (a) At a Disciplinary Hearing, the Board will:
 - (i) give the Member's Delegate an opportunity to make oral representations;
 - (ii) give due consideration to any written submission submitted to the Board by the Member or the Member's Delegate at or prior to the meeting; and
 - (iii) by resolution determine the action (if any) to be taken under **clause 7.8**.
- (b) The Board may not censure, suspend or expel a Member under **clause 7.8** unless they pass a special resolution in favour of such a resolution;
- (c) The Board may elect to vote on a show of hands or by way of secret ballot; and
- (d) Where the Board passes a resolution at a Disciplinary Hearing, the Company must within 7 days after the date of that resolution, give written notice to the Member of that resolution.

8 DELEGATES

8.1 Role of the Delegates

Each "A" Class Member is required to nominate one (1) Delegate to exercise that Member's rights of membership and attend meetings of the Company. Whilst the acts and omissions of a Delegate bind the Delegate's nominating Member, nothing shall derogate from the Company's entitlement to rely on anything which is said (written or oral), done or represented in the name of a Member independently of its Delegate.

8.2 Nominating Delegates

- (a) The Member's nomination must be in writing and provided to the Secretary.

- (b) A person becomes a Delegate and is entitled to exercise the rights of membership of the nominating Member when his or her name is entered in the Register.

8.3 Term and Termination

- (a) A Member may terminate the appointment of its Delegate and nominate another person as its Delegate at any time by giving written notice to the Secretary.
- (b) Upon receipt of a notice under clause 7.3(a), the Secretary will notify the Delegate that his or her appointment has been terminated and amend the Register.

8.4 Disciplining Delegates

The provisions of **clauses 7.8 to 7.11** govern the disciplining of Delegates. The references to “Member” are to read as references to “Delegate” where appropriate.

8.5 Life Delegates

- (a) The Board may in its absolute discretion recommend a current Delegate or former Delegate who has rendered outstanding service to the Company to the Members for election as a Life Delegate. If the general meeting passes a special resolution in favour of the appointment of the current Delegate or former Delegate as a Life Delegate, that person will become a Life Delegate.
- (b) The appointment of a person as a Life Delegate may be cancelled at any time by resolution of the Members.
- (c) No more than two Life Delegates can be appointed in any one financial year and there must not be more than 10 Life Delegates at any one time unless the Members resolve otherwise.
- (d) A Life Delegate is not liable to pay the Annual Levy or any other fees to the Company.
- (e) A Life Delegate may attend meetings of the Company but is not entitled to vote.

8.6 Honorary Delegates

- (a) The Board may in its absolute discretion recommend a person (other than a current Delegate) who has rendered outstanding service to the Company, the Community or to the Irrigation Industry to the Members for election as an Honorary Delegate. If the general meeting passes a special resolution in favour of the appointment of the person as an Honorary Delegate, that person will become a Honorary Delegate.
- (b) The appointment of a person as an Honorary Delegate may be cancelled at any time by resolution of the Board.
- (c) No more than two Honorary Delegates can be appointed in any one financial year and there must not be more than 10 Honorary Delegates at any one time unless the Members resolve otherwise.

- (d) An Honorary Delegate is not liable to pay the Annual Levy or any other fees to the Company.
- (e) An Honorary Delegate may attend meetings of the Company but is not entitled to vote.

9 GENERAL MEETINGS

9.1 Annual general meeting

An annual general meeting of the Company must be held in accordance with the Corporations Act.

9.2 Directors' power to convene general meeting

Each Director may convene a general meeting whenever he or she thinks fit.

9.3 Members' power to convene general meeting

The Board must call and arrange to hold a general meeting on the request of Members made in accordance with section 249D of the Corporations Act.

9.4 Notice of general meeting

- (a) Subject to the provisions of the Corporations Act as to short notice, not less than 14 days notice of a general meeting, or in the case of a general meeting convened to consider a special resolution not less than 21 days notice, must be given in writing to each Member.
- (b) A notice convening a general meeting must specify:
 - (i) the place, date and time for the meeting (and, if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
 - (ii) the general nature of general meeting's business;
 - (iii) if the general meeting is an annual general meeting, there must appear in it with reasonable prominence a statement that the meeting is an annual general meeting;
 - (iv) if a special resolution is to be proposed at the general meeting, set out an intention to propose the special resolution and state the resolution; and
 - (v) there must appear in it with reasonable prominence a statement that:
 - A. a Member's Delegate is entitled to attend and vote or the Member is entitled to appoint a proxy to attend and vote; and
 - B. a proxy need not be a Member.

- (c) No business other than that specified in the notice convening a general meeting will be transacted at the meeting except, in the case of an annual general meeting, business which may be transacted in accordance with **clause 10.1(b)**.
- (d) A Member desiring to bring any business before a general meeting who has not given sufficient notice to the Secretary may, by leave of the meeting, have that business heard.

9.5 Omission to give notice

The accidental omission to give notice of a meeting to or the non-receipt of notice of a meeting by any entity entitled to receive notice does not invalidate the proceedings at the meeting.

9.6 Auditor's right to attend general meetings

The Auditor or an agent authorised by the Auditor in writing for the purpose is entitled to attend any general meeting, to receive all notices of and other communications relating to any general meeting on any part of the business of the meeting which concerns the Auditor in that capacity, and is entitled to be heard notwithstanding that the Auditor retires at that meeting or a resolution to remove the Auditor from office is passed at that meeting.

10 PROCEEDINGS AT GENERAL MEETINGS

10.1 Special business

All business will be special that is transacted at:

- (a) a general meeting not being an annual general meeting; or
- (b) an annual general meeting with the exception of:
 - (i) the confirmation of the minutes of the preceding meeting;
 - (ii) the receipt and consideration of the balance sheet, the profit and loss statement and the reports of the Directors and the auditors;
 - (iii) the election of Directors;
 - (iv) the transaction of any business which under the Corporations Act or this Constitution is required to be transacted.

10.2 Quorum

- (a) A quorum for any general meeting occurs when two-thirds of the Delegates who are entitled to attend and vote are present in person or by proxy. An item of business may not be transacted at a general meeting unless a quorum is present when the meeting proceeds to business.
- (b) To determine whether a quorum is present, the Chair must count the Delegates in attendance in person or by proxy.

10.3 Lack of quorum

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

- (a) if convened upon the request of Members under **clause 9.3**, is dissolved; and
- (b) in any other case stands adjourned to the same day in the next week at the same time and place, or to another day, time and place which the Directors appoint by notice to the Members and others entitled to notice of the meeting, and if a quorum is not present within 30 minutes after the time appointed for the adjourned meeting the adjourned meeting is dissolved.

10.4 Chair of general meetings

The Chair may preside at every general meeting. If the Chair is not present able and willing to act within 30 minutes of the time appointed for a meeting or has signified an intention not to be present and able and willing to act, the Deputy Chair will preside. If the Deputy Chair is not present or declines to take the chair, the Directors must choose another Director as chair. If no Director is so chosen or if all the Directors present decline to take the chair, the Members present must choose one of their own number to chair the meeting.

10.5 Adjournment

The Chair of a general meeting may with the consent of the majority of those present and entitled to vote at the meeting, adjourn the meeting from time to time and place to place, but the only business that may be transacted at an adjourned meeting is the business left unfinished at the meeting from which the adjournment took place.

10.6 Notice of adjourned meeting

If a meeting is adjourned for 14 days or more, notice of the adjournment must be given in accordance with **clause 9.4** so far as applicable.

10.7 How questions decided

Every question submitted to a general meeting is to be decided by a show of hands, unless before or on the declaration of the result of the show of hands a poll is demanded by:

- (a) the Chair of the meeting; or
- (b) not less than 3 Delegates present in person or by proxy and having the right to vote at the meeting.

10.8 Minutes as evidence of result

Unless a poll is duly demanded, a declaration by the Chair that a resolution has passed has, on the show of hands, been:

- (a) carried;
- (b) carried unanimously;

- (c) carried by a particular majority; or
- (d) lost or not carried by a particular majority,

and an entry to that effect in the book containing the minutes of the proceedings of the Company signed by the Chair, is conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the resolution.

10.9 Taking of poll

- (a) If a poll is demanded it must be taken:
 - (i) immediately in the case of a poll which relates to the election of a person to preside at the meeting or to the question of adjournment; or
 - (ii) in any other case, in such manner and at such time before the close of the meeting as the Chair directs, and the result of the poll is to be deemed the resolution of the meeting at which the poll was demanded on that matter.
- (b) The demand for a poll may be withdrawn.
- (c) The result of the poll will be deemed to be the resolution of the meeting at which the poll was demanded and an entry to that effect in the minutes of the meeting is conclusive evidence of that and it is not necessary to prove the number or proportion of votes cast in favour of or against the motion.
- (d) The demand for a poll does not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded.

11 VOTING OF DELEGATES

11.1 Voting rights

- (a) At a general meeting each person present as a Delegate or a proxy has one vote on each resolution. No Delegate may hold more than one Member delegation.
- (b) All votes will be given personally or by proxy but no Director or Delegate may hold more than three (3) proxies.
- (c) A Delegate is not entitled to vote at a general meeting if the nominating Member's Annual Levy is more than one month in arrears at the date of that meeting.
- (d) A "B" Class Member is not entitled to vote at a general meeting or annual general meeting.

11.2 Casting vote

In the case of an equality of votes, the Chair of the meeting at which the vote is taken is entitled to a casting vote in addition to any votes to which he or she is entitled as a Delegate. The Chair has a discretion both as to whether or not to use the casting vote and as to the way in which it is used.

12 PROXIES

12.1 Appointment of proxy

A Delegate is entitled to attend and cast a vote at a general meeting. A Member is entitled to appoint another person (whether a Delegate or not) as proxy to attend the meeting in the place of its Delegate and the proxy has the same right at the Member's Delegate to speak and vote at the meeting.

12.2 Instrument of proxy

An instrument appointing a proxy must be in writing signed by the appointor or the appointor's attorney duly authorised in writing and, if and to the extent that the Directors permit, may be in respect of more than one meeting.

12.3 Form of proxy

An instrument appointing a proxy is valid if it is signed by the Member making the appointment and contains the following information:

- (a) the appointing Member's name and address;
- (b) the Delegate's name;
- (c) the proxy's name or the name of the office held by the proxy; and
- (d) the meeting or meetings at which the appointment may be used.

The appointment of a proxy need not be witnessed and a later appointment revokes an earlier one if both appointments could not be validly exercised at the meeting. An instrument of proxy in which the name of the appointee is not filed in is taken to be in favour of the Chair of the meeting to which it relates.

12.4 Proxy to be deposited at Registered Office

- (a) To be effective, an instrument appointing a proxy and the authority (if any) under which it is executed or a certified copy of the authority must be received by the Company prior to the commencement of the meeting or adjourned meeting or taking of the poll, at which the person named in the instrument proposes to vote. If this **clause 12.4** is not complied with, the instrument of proxy will be treated as invalid.
- (b) An instrument appointing a proxy is received when it is received at or by any of the following:
 - (i) the Registered Office, 24 hours prior to the commencement of the meeting;
 - (ii) a facsimile number at the Registered office, 24 hours prior to the commencement of the meeting;
 - (iii) a place, facsimile number or electronic address specified for the purpose in the notice of meeting; or

(iv) in person by the Secretary or Chair.

12.5 Power to demand poll

The instrument appointing a proxy is taken to confer authority to demand or join in demanding a poll.

12.6 Identification of proxy

The Chair of a meeting may require a person acting as a proxy to establish to the satisfaction of the Chair that he or she is the person nominated as proxy in the form of proxy lodged under this Constitution. If the person does not comply, that person may be excluded from voting.

12.7 Votes of proxies

A vote cast in accordance with the terms of an instrument of proxy is valid notwithstanding the previous revocation of that person's authority, unless the Company has received notice in writing of the revocation at the Registered Office or by the Chair of the meeting before the vote is cast.

12.8 Declaration of proxy votes

The Chairman must, before a poll is taken, inform the meeting whether any proxy votes have been received and how the proxy votes are to be cast.

13 DIRECTORS

13.1 Appointment of first Board

- (a) The first Board will comprise:
- (i) Laurence Arthur;
 - (ii) Richard Thompson;
 - (iii) Russell Ford;
 - (iv) Colin Thomson;
 - (v) Michael Bennett;
 - (vi) Jeremy Killen;
- (b) in the case of the Directors named at **clause 13.1(a)(i), (ii) and (iii)** they will hold office to the first annual general meeting after the adoption of this Constitution.
- (c) At least three positions on the Board shall fall vacant each year, those Directors whose terms are expiring and those Directors filling casual vacancies retiring first, then those least recently appointed (including elected) retiring next. If as between any Directors there is an equal qualification to create a third vacancy, then the issue will be determined by lot.

13.2 Board composition

The Board shall comprise 6 Directors. However, the Delegates may resolve from time to time to increase or reduce the number of Directors.

13.3 Directors' duty

In accordance with the Corporations Act, each Director shall be bound to act in the interests of the Company as a whole and not in the interests of any one or more of the Members or stakeholders.

13.4 Election of Directors

- (a) Subject to clauses 13.1(c) and 13.7, Directors are to be elected at the annual general meeting.
- (b) Any Member or Delegate may nominate a candidate, for appointment to the Board.
- (c) Nominations shall be delivered to the Company Secretary 21 days prior to the annual general meeting. Nominations must be seconded by a Member or Delegate.

13.5 Process for appointment

- (a) The Company Secretary shall by written notice circulate an alphabetical list of the candidates for appointment to the Board.
- (b) If the number of nominated candidates is less than the number of vacancies on the Board, any Delegate present in person at the annual general meeting may nominate himself or herself for appointment to the Board, provided that nomination is seconded by another Delegate.
- (c) At the annual general meeting, the Delegates may by ordinary resolution veto the nomination of any candidate for appointment to the Board.
- (d) At the annual general meeting, a ballot shall be conducted to determine appointments to the Board from the list of nominated candidates, if necessary.

13.6 Remuneration for Directors

Directors may receive remuneration for his or her services as a Director, but only as permitted in **clause 2**.

13.7 Vacancies

- (a) If any vacancy occurs in the membership of the Board for any reason, the Directors may appoint a Delegate to fill the vacancy and the Delegate so appointed will hold office subject to this Constitution. The person filling the vacancy shall retire at the next occurring annual general meeting.
- (b) The continuing Directors may act despite any vacancy in the Board. If however the number of Directors falls below the minimum number fixed by the Corporations Act, the Directors may only act:

- (i) for the purpose of increasing the number of Directors to the minimum; or
 - (ii) in emergencies,
- but for no other purpose.

13.8 Office of Chief Executive

The Chief Executive shall be appointed by the Board and shall be engaged under contract.

14 TERM AND REMOVAL OF DIRECTORS

14.1 Term of appointment

Each Director holds office for 2 years after which time each Director's office becomes vacant. A retiring Director is eligible for re-appointment.

14.2 Removal of Directors

- (a) The Members in general meeting may by resolution remove any Director from office subject to **clause 14.2(b)**.
- (b) No resolution for the removal of a Director from office is to be put to a general meeting unless a notice signed by a Member duly qualified to vote at that meeting and signifying the intention of that Member to propose that resolution and briefly stating the reasons for the proposed resolution is received by the Company not less than 2 months before the date appointed for holding the meeting.

15 DISQUALIFICATION OF DIRECTORS

The office of a Director is automatically vacated if the Director:

- (a) dies;
- (b) ceases to be a Director by virtue of, or becomes prohibited from being a Director because of an order made under, the Corporations Act;
- (c) becomes bankrupt or insolvent or makes an arrangement or composition with creditors of the Director's joint or separate estate generally;
- (d) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law relating to mental health;
- (e) the period for which the Director is appointed expires;
- (f) resigns office by providing 14 days written notice to the Company or refuses to act;
- (g) is not present in person or by proxy at the meetings of the Directors for a continuous period of 6 months without leave of absence from the Directors;

- (h) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of that interest as required by the Corporations Act;
- (i) is removed from office by a resolution passed at a general meeting of the Company; or
- (j) ceases to be a Delegate.

16 ALTERNATE DIRECTORS

16.1 Appointment of alternate

With the other Directors approval, a Director may appoint another person as an Alternate Director to exercise some or all of the Director's powers for a specified period by notice in writing to the Company.

16.2 Request for notice

If the appointing Director requests the Company to give the Alternate Director notice of meetings of the Board, the Company must do so.

16.3 Exercise of powers

When an Alternate Director exercises the appointing Director's powers, the exercise of the powers is just as effective as if the appointing Director exercised the powers.

16.4 Termination

The appointing Director may terminate the Alternate Director's appointment at any time by notice in writing to the Company.

17 POWERS OF THE BOARD

Subject to the Corporations Act and this Constitution, the Board will manage the business and affairs of the Company.

18 DIRECTORS' CONTRACTS

18.1 Director's interests

Subject to the Corporations Act:

- (a) no Director or proposed Director is disqualified by that office from:
 - (i) entering into a contract, agreement or arrangement with the Company;
 - (ii) becoming or remaining a Director of any company in which the Company is in any way interested or which is in any way interested in the Company;

- (b) no contract, agreement or arrangement in which a Director is in any way interested, entered into by or on behalf of the Company can be avoided merely because of that Director's interest; and
- (c) no Director who:
 - (i) enters into a contract, agreement or arrangement in which the Director has an interest; or
 - (ii) is a Director of the other company with which the Company has entered into the contract, agreement or arrangement,

is liable to account to the Company for any profits or remuneration realised by that Director as a result of his or her being interested or being a director of the other company.

18.2 Declaration of interest

The nature of a Director's interest in any contract, agreement or arrangement must be declared by that Director at a meeting of the Board in accordance with the Corporations Act as soon as practicable after the relevant facts have come to his or her knowledge. A general notice that a Director is a member of any specified firm or corporation and is to be regarded as interested in all transactions with that firm or corporation is a sufficient declaration under this clause as regards the Director and the transactions. After giving the general notice it is not necessary for the Director to give any special notice relating to any particular transaction with that firm or corporation. The Secretary must record in the minutes any declaration made or any general notice given by a Director under this clause.

18.3 Restrictions on voting

Subject to the Corporations Act, a Director who has a material person interest in a matter that is being considered at a Directors meeting must not:

- (a) be present while the matter (or a proposed resolution under **clause 18.3(c)(ii)** in relation to that matter, whether in relation to that or a different Director) is being considered; and
 - (b) vote on the matter (or a proposed resolution of that kind),
- unless:
- (c) the matter applies to an interest that the Director has as a Member in common with other Members; or
 - (d) the Board passes a resolution that specifies the Director, the interest and the matter, and states that the Directors voting for the resolution are satisfied that the interest does not disqualify the Director from considering or voting on the matter.

19 DIRECTORS' CONFLICTS OF INTEREST

If a Director holds an office or possesses a property such that he or she might have duties or interests which directly or indirectly conflict with his or her duties or interest as Director,

that Director must declare at a board meeting the fact, nature, character and extent of the conflict.

20 PROCEEDINGS OF THE BOARD

20.1 Meetings

The Board will meet at least once in each calendar year for the dispatch of business, adjourn and otherwise regulate its meetings and proceedings as it thinks fit.

20.2 Calling meetings

A Director may at any time, and the Secretary must on the request of a Director, call a meeting of the Board by giving notice to every other Director.

20.3 Notice

Notice of a meeting of the Board is to be given to all Directors except to a Director whom the Secretary, when giving notice to other Directors, reasonably believes to be outside Australia.

20.4 Quorum for meetings

- (a) A majority of the total number of Directors provided for in this Constitution in present in person or by proxy and entitled to vote at a Directors meeting are a quorum at a Board meeting.
- (b) An item of business may not be transacted at a Board meeting unless a quorum is present.
- (c) If within 30 minutes after the time appointed for a Board meeting a quorum is not present, the meeting stands adjourned to the same day in the next week at the same time and place, and if a quorum is not present within 30 minutes after the time appointed for the adjourned meeting, the adjourned Board meeting is dissolved.

20.5 Appointment of proxy

A Director who is unable to attend a Board meeting may appoint a proxy to attend the Board meeting provided the proxy is a Director and has been appointed in accordance with **clause 12**.

20.6 Chair of meetings

The Chair may preside at any Board meeting. If the Chair is not present able and willing to act within 30 minutes of the time appointed for a meeting or has signified an intention not to be present and able and willing to act, the Deputy Chair will preside. If the Deputy Chair is not present or declines to take the chair, the Directors must choose another Director as chair.

20.7 How questions decided

Subject to **clause 20.8**, questions arising at any Board meeting are to be decided by a majority of votes. Each Director has one vote and a determination by a majority of the Directors will

for all purposes be deemed a determination of the Directors. If there is equality of votes at a meeting at which a quorum is present the Chair has a second or casting vote in addition to a deliberative vote.

20.8 Written resolution

Subject to the Corporations Act, a resolution in writing signed by all the Directors who are for the time being in Australia (not being less than a quorum) is as valid and effectual as if it had been passed at a meeting of the Council duly held. That resolution may consist of several copies of a document each signed by one or more Directors.

20.9 Meetings by communications technology

A meeting of the Board may be called or held using any technology consented to by all the Directors. The consent may be a standing one. A Director may only withdraw consent within a reasonable period before the meeting.

20.10 Validity of acts of Directors

Any act done by any meeting of the Board or by a Committee or by any person acting as a Director will be valid even if it is later discovered:

- (a) that there was some defect in the appointment or continuance in office of a Director or such other person; or
- (b) that any of them was disqualified or had vacated office or were not entitled to vote.

20.11 Committees

The Board may delegate any of their powers to Committees consisting of such Directors or other persons as the Board thinks fit and may revoke the delegation. Any Committee so formed must comply with the regulations that may be imposed on it by the Board in exercising the Committee's delegated power.

20.12 Meetings of Committees

The meetings of Committees consisting of more than one person are governed by the clauses of this Constitution regulating the meetings of the Board so far as they are applicable and are not superseded by any regulations made by the Board under this Constitution.

21 BORROWING POWERS

The Board may exercise all the powers of the Company to:

- (a) borrow money;
- (b) mortgage or charge all or part of its undertaking and assets; and
- (c) issue debentures, debenture stock and other securities outright or as security for any debt, contract, guarantee, engagement, obligation or liability of the Company or of any third party,

on the terms and conditions as the Board thinks fit.

22 MINUTES

- (a) The Board must cause minutes to be kept in accordance with the Corporations Act:
 - (i) of the names of the Directors present at each meeting of the Board and of any Committee; and
 - (ii) of all resolutions and proceedings of general meetings and of meetings of the Board and of Committees.
- (b) The minutes must be signed by the Chair of the meeting at which the proceedings were held or by the Chair of the next meeting.

23 CHAIR AND DEPUTY CHAIR

23.1 Appointment of Chair and Deputy Chair

The Directors must, within fourteen (14) days of the annual general meeting, elect a Chair, Deputy Chair and Chief Financial Officer from their own number. The Chair, Deputy Chair and Chairman of Audit and Risk Committee will (provided they remain Directors), subject to this Constitution, hold office for a period of one year from the date of their election.

24 SECRETARY

The Board must appoint one or more Secretaries in accordance with the Corporations Act for such terms, at such remuneration and upon such conditions as the Board determines. Any Secretary so appointed may be removed by resolution of the Board.

24A CHAIRMAN OF AUDIT AND RISK COMMITTEE

The Board must appoint a Chairman of Audit and Risk Committee for such terms, at such remuneration and upon such conditions as the Board determines. The appointee may be removed by resolution of the Board.

25 FINANCIAL RECORDS

25.1 Financial and other records

The Board must cause proper financial and other records to be kept and provide annual financial reporting to Members as required by the Corporations Act and as required by reason of the Company's access and use of the Commonwealth Funds and Authorities. The Board must from time to time determine whether and to what extent and at what times and places and under what conditions or regulations any financial or other records of the Company are to be open to the inspection of Delegates who are not Directors. No Delegate (who is not a Director) has the right to inspect any records of the Company except as conferred by statute or authorised by the Board or by the Company in general meeting.

25.2 Time for financial reports

The interval between the end of a Financial Year of the Company and the annual financial reporting to Members must not exceed the period (if any) prescribed by the Corporations Act.

26 SEAL

The Board may decide that the Company will have a Common Seal or a duplicate Common Seal. If they do, they must provide for the safe custody of any Seal. The Seal may only be used with the authority of the Board. The Board need not affix the Common Seal to every deed, but each deed must be signed by a Director and countersigned by the Secretary or by a second Director or by some other person appointed by the Board for that purpose. The Board may determine, from time to time the manner by which other instruments are executed by the Company.

27 SERVICE OF DOCUMENTS

27.1 Notices to Members

The Company may give notice to a Member or its Delegate:

- (a) personally;
- (b) by sending it by post to the Member at its registered address;
- (c) by sending it to the fax number or electronic mail address (if any) nominated by the Member; or
- (d) in any other way allowed under the Corporations Act.

27.2 Deemed service

- (a) If a notice is sent by post, service of the notice is deemed to be effected by properly addressing, prepaying and posting a letter containing the notice and to have been effected at the time at which the letter would be delivered in the ordinary course of post;
- (b) A notice sent by fax is deemed to be received on production of a transmission report by the machine from which the fax was sent which indicates that the fax was sent in its entirety to the fax number of the recipient if produced before 5pm on a Business Day, otherwise on the next Business Day.
- (c)
 - (i) A notice sent by electronic mail is deemed to be received on the day of transmission, if transmitted before 5pm on a Business Day, otherwise on the next Business Day.
 - (ii) A notice sent by electronic mail is deemed not to be served only if the computer system used to send it reports that delivery failed.

27.3 Persons entitled to notice of general meeting

Notice of every general meeting must be given in the manner authorised to:

- (a) every Member; and
- (b) the Auditor for the time being (if any) of the Company.

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

28 WINDING UP

If upon the winding up or dissolution of the Company there remains, after the satisfaction of all its debts and liabilities, any property or money whatsoever, the remaining assets shall not be paid or distributed to the Members but shall be transferred to some other fund, authority or institution determined by the Delegates in general meeting having objects or purposes similar to the objects and purposes of the Company or (in the event there is no such fund, authority or institution) to some charitable purpose.

29 INDEMNITY

29.1 Indemnity

The Company indemnifies any person who is or has been an officer (as defined in the Corporation Act), a staff member or auditor of the Company (to the maximum extent permitted by law), out of the assets of the Company against any liability incurred by the person as such an officer or auditor:

- (a) to another person (other than the Company or a related body corporate) unless the liability:
 - (i) is for a pecuniary penalty order under section 1317G of the Corporations Act or a compensation order under section 1317H of the Corporations Act; or
 - (ii) arises out of conduct involving a lack of good faith; and
- (b) for legal costs and expenses incurred by the person, unless the costs and expenses are incurred:
 - (i) in defending or resisting proceedings in which the person is found to have a liability for which they could not be indemnified under section 199A(2) of the Corporations Act;
 - (ii) in defending or resisting criminal proceedings in which the person is found guilty;
 - (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 have been established; or

- (iv) in connection with proceedings for relief to the person under the Corporations Act in which the court denies the relief.

29.2 Insurance

If the Board considers it appropriate and the law permits, the Company may pay or agree to pay a premium in respect of a contract insuring a person who is or has been an officer (as defined in the Corporations Act) or auditor of the Company or of a related body corporate of the Company against any liability:

- (a) incurred by the person as such an officer or auditor which does not arise out of conduct involving a wilful breach of duty in relation to the Company or a contravention of sections 182 or 183 of the Corporations Act; or
- (b) for costs and expenses incurred by the person in defending proceedings as such an officer, whether civil or criminal and whatever their outcome.

30 INTERPRETATION

30.1 The Constitution

This Constitution contains clauses setting out the manner in which the Members of the Company have agreed to conduct the internal administration of the Company.

30.2 Replaceable Rules

The Replaceable Rules do not apply to the Company unless repeated in this Constitution or specifically made applicable to the Company by a provision of this Constitution.

30.3 Definitions

In this Constitution, unless the context otherwise requires:

“**Annual Levy**” means the annual levy payable by a Member in accordance with **clause 6**.

“**Application for Membership**” means an application for membership as set out in the Schedule.

“**ASIC**” means the Australian Securities and Investments Commission.

“**Board**” means the Board of Directors of the Company.

“**Chair**” means the person appointed as Chair in accordance with **clause 23**.

“**Committee**” means a Committee of Directors formed pursuant to **clause 20.8**.

“**Constitution**” means this Constitution as altered or added to from time to time.

“**Company**” means the New South Wales Irrigators’ Council Limited ACN 002 650 204.

“**Corporations Act**” means the Corporations Act 2001.

“Deputy Chair” means the person appointed as Deputy Chair in accordance with **clause 23**.

“Director” includes any person who is elected or appointed to that position in accordance with the Constitution and is acting in that capacity.

“Directors” means the Directors for the time being or such number of them as have authority to act for the Company.

“Disciplinary Hearing” means the disciplinary hearing described in **clause 7.9**.

“Financial Year” means the period of 12 months commencing on 1 July in any year and ending on 30 June in the following year.

“Honorary Delegate” means a person who is appointed as an Honorary Delegate in accordance with **clause 8.6(a)**.

“Life Delegate” means a person who is appointed as a Life Delegate in accordance with **clause 8.5(a)**.

“Member” means a person admitted as a member of the Company pursuant to **clause 7.3**.

“NSW” means the State of New South Wales.

“Register” means the register of Members to be kept pursuant to the Corporations Act.

“Replaceable Rule” has the same meaning as ascribed to it in the Corporations Act.

“Registered Office” means the registered office for the time being of the Company.

“Seal” means the common seal (if any) of the Company.

“Secretary” means any person appointed to perform the duties of secretary of the Company pursuant to **clause 24**.

“Termination Notice” means written notice given to a Member advising that the Delegates passed a special resolution to terminate that Member’s membership of the Company.

30.4 Construction

In this Constitution, unless the contrary intention appears:

- (a) words importing:
 - (i) the singular include the plural and vice versa; and
 - (ii) any gender includes the other genders;
- (b) if a word or phrase is defined cognate words and phrases have corresponding definitions;
- (c) “includes” means includes without limitation;

- (d) a reference to:
- (i) a person includes a partnership, joint venture, unincorporated association, corporation and a government or statutory body or authority;
 - (ii) a person includes its legal personal representatives, successors and assigns;
 - (iii) a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
 - (iv) a right includes a benefit, remedy, discretion, authority or power;
 - (v) an obligation includes a warranty or representation and a reference to a failure to observe or perform an obligation includes a breach of warranty or representation;
 - (vi) provisions or terms of this document or another document, agreement understanding or arrangement include a reference to both express and implied provisions and terms;
 - (vii) “\$” or “dollars” is a reference to the lawful currency of Australia;
 - (viii) this or any other document includes the document as varied or replaced and notwithstanding any change in the identity of the parties;
 - (ix) writing includes any mode of representing or reproducing words in tangible and permanently visible form, and includes facsimile transmission; and
 - (x) any thing (including, without limitation, any amount) is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them.

31 METHOD OF BALLOT

Where a ballot is required at any meeting of Council or the Board, a “first past the post” system is to be used.

In the Election of Directors at an Annual General Meeting, where multiple vacancies occur, and the number of nominations is greater than the number of vacancies, a ballot must occur. Delegates will number the ballot paper by order of preference, and the votes tallied against each candidate by the weighting of votes highest to lowest in descending order according to preferences. In the case of a tie of votes between candidates a second and subsequent ballots will be conducted by the same method until all vacancies are filled.

SCHEDULE**Class “A” Membership**

Bega Cooperative Society Limited
Border Rivers Food and Fibre
Coleambally Irrigation Cooperative Limited
Cotton Australia
Gwydir Valley Irrigators Association Inc.
High Security Irrigators – Murrumbidgee Inc
Hunter Valley Water Users Association
Lachlan Valley Water
Macquarie River Food and Fibre
Mid Coast Dairy Advancement Group
Mungindi-Menindee Advisory Council
Murray Irrigation LTD
Murray Valley Water Diverters Advisory Association
Murrumbidgee Groundwater Inc
Murrumbidgee Irrigation LTD
Murrumbidgee Private Irrigators’ Inc.
Murrumbidgee Valley Food and Fibre Association
Namoi Water
NSW Dairy Farmers’ Association Limited
NSW Farmers Association
Ricegrowers’ Association of Australia
Richmond Wilson Combined Water Users’ Association
Southern Riverina Irrigators
South Western Water Users
West Corugan Private Irrigation District

Class “B” Membership

Riverina Citrus
Wine Grapes Marketing Board