

# Constitution of Jacaranda Housing

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<b>Constitution of Jacaranda Housing</b>
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**1 Name of the Company**

The name of the Company is **Jacaranda Housing**.

**2 Nature of the Company**

The company is a not-for-profit public company limited by guarantee and not having a share capital.

**3 Replaceable Rules**

The Replaceable Rules do not apply to the Company.

**4 Objects of the Company****4.1 Primary Object**

To provide direct services and assistance for the relief of poverty, suffering, distress, misfortune or helplessness by providing subsidised Housing options to people who are in need, including Underprivileged People, persons in Very Low Income Households, and people experiencing Housing Stress.

**4.2 Further Objects**

4.2.1 To be a public benevolent institution in terms of item 4.1.1 of the table in section 30-45 of the *Income Tax Assessment Act 1997*

4.2.2 To be a charitable institution in terms of item 1.1 in section 50-5 of the *Income Tax Assessment Act 1997*

4.2.3 To act as a not for profit company with any surplus made by the company to be used to meet its objectives

4.2.4 To provide a range of low rental and affordable rental Housing options for people in disadvantaged target groups including, but not limited to:

- People from culturally diverse backgrounds including temporary protection visa holders and refugees;
- People with disabilities, including mental illness and other impairments;
- Elderly people in need, and
- Parents and children in need.

4.2.5 To contribute to strong, diverse and inclusive communities by facilitating participation of disadvantaged citizens in community life and engaging local community members in actions that address housing and related needs

4.2.6 To promote active participation of tenants in the governance of the organisation and in the development of organisational policy and strategic direction

- 4.2.7 To achieve an ongoing supply of affordable housing in South East Queensland
- 4.2.8 To receive government funding, resources and other income which assists the company to meet its objectives
- 4.2.9 To work with government, non-government agencies and other entities to achieve the objects of the company, and
- 4.2.10 To undertake such other activities that are incidental to, and supportive of, the primary object.

## **5 Actions authorised under the Law**

Where the Law authorises or permits a company to do any thing if so authorised by its Constitution, the Company will be taken by this clause to be authorised or permitted to do that thing, despite any other provision of this Constitution.

## **6 Income and Property of the Company is not for Member's Profit**

- 6.1 Subject to clause 6.2, the income and property of the Company shall be used solely for achieving the objects of the Company (as set out in clause 4 [Objects of the Company]).
- 6.2 No part of the income and property of the Company may be paid or transferred in any way, directly or indirectly, to any Member, unless:
  - (a) the payment is a reasonable amount made fairly and properly for services actually performed for, or real property or goods supplied to, the Company in the ordinary and usual course of business
  - (b) for payment or reimbursement of reasonable out-of-pocket expenses incurred by a Member on behalf of the Company
  - (c) the payment is made for reasonable interest on money lent by any person to the Company, or
  - (d) the payment is made for reasonable rent for premises used by the Company.

## **7 Income and Property of Company if Company Wound Up or Ceases to be Endorsed**

- 7.1 If after winding up or dissolution of the Company there is any property remaining (after satisfaction of all its debts and liabilities) the property remaining must not be paid or distributed to the Members.
- 7.2 If the Company ceases to be endorsed by the Commissioner of Taxation as a public benevolent institution and deductible gift recipient for the purposes of any Commonwealth Taxation Act, the property remaining must not be paid or distributed to the Members.
- 7.3 If an event occurs that is set out in 7.1 or 7.2, the property remaining (after satisfaction of all its debts and liabilities), must be given or transferred to some other organisation (or organisations) that:
  - (a) is a not-for-profit organisation with similar objects to the Company

- (b) prohibits the distribution of its income or property to its Members under provisions which are consistent with this clause and clause 6 [Income and Property of Company is Not for Member's Profit], and
- (c) is endorsed by the Commissioner of Taxation as a public benevolent institution and deductible gift recipient for the purposes of any Commonwealth Taxation Act.

## **8 Liability of Members**

### **8.1 Limited Liability of Members**

8.1.1 The liability of each Member is limited to the sum of five dollars (\$5).

8.1.2 Each Member agrees that if the Company is wound up while she or he is a Member, the Member will contribute a maximum of five dollars (\$5) to the payment of debts of the Company and to the expenses of winding up.

## **9 Company Membership**

### **9.1 Requirements of Membership**

The Members agree to be bound by the Constitution (including any policies and procedures properly made) as if it was a contract:

- (a) between each of them and the Company
- (b) between the Company and each Member of the Board, and
- (c) between a Member and each other Member.

### **9.2 Number of Members**

The number of members which the Company may propose to be registered is unlimited.

### **9.3 Three Classes of Members**

There are three classes of Members.

- (a) Class A membership – Founding members
- (b) Class B membership – Interested persons
- (c) Class C membership – Significant Contributors

### **9.4 Eligibility for Membership**

#### **9.4.1 Class A – Founding members**

- (a) A person who is listed on the Register of Foundation Members automatically becomes a Class A Member of the Company, or
- (b) A person is eligible to become a Founding Member if –
  - (i) on the date of registration of the Company, the person is properly recorded on the register of members of a Participating Entity
  - (ii) the person has indicated in writing that they wish to be included on the Register of Foundation Members of the Company, and

(iii) the Participating Entity has passed a special resolution to wind up, deregister, amalgamate or otherwise change the structure of the Participating Entity and to transfer any property remaining (after satisfaction of all its debts and liabilities) to the Company.

(c) For the purposes of 9.4.1(b), a Participating Entity is one of the following –

- (i) Alpha Housing Company Limited
- (ii) Bayside Housing Community Limited
- (iii) Inner-Western Suburbs Housing Collective Limited
- (iv) Latin American Housing Company Ltd
- (v) Limestone Independent Housing Ltd, or
- (vi) West End Housing Cooperative Ltd.

#### **9.4.2 Class B – Interested Persons**

A person may be eligible to become a Class B Member if the person::

- (a) is a natural person,
- (b) supports the achievement of the objects of the Company

#### **9.4.3 Class C – Significant Contributors**

A person may be eligible to become a Class C Member if the person::

- (a) is a natural person,
- (b) is determined by the Board to be a person (or a person who represents an organisation) who supports the achievement of the objects of the Company through making a significant financial, asset or resource contribution

### **9.5 Rights of Members**

Each Member has one (1) vote at any General Meeting.

### **9.6 Membership is not transferable**

9.6.1 The rights of membership are personal to the Member.

9.6.2 Members may not transfer, sell, or hold on trust, all or any part of the rights of membership.

### **9.7 Joint Memberships**

9.7.1 More than one person may apply for a joint membership of the Company.

9.7.2 In the case of joint membership, joint Members may only exercise one (1) vote between them.

9.7.3 If more than one Member votes in respect of the joint membership, only the vote of the Member whose name appears first in the register of Members counts.

## **9.8 Applying for Membership**

An application for Class B or Class C membership of the Company :must:

- (a) be made in writing on a form approved by the Board
- (b) be accompanied by supporting documentation (as requested by the Board)
- (c) include the written consent of the person applying for Membership
- (d) be given to the Secretary, and
- (e) be referred by the Secretary to the Board for its consideration.

## **9.9 Applications must be decided by the Board**

9.9.1 An application for membership of the Company will be decided by the Board in its absolute discretion.

9.9.2 A resolution of the Board to accept an application for membership must be passed in accordance with the requirements of clause 17.4 [Decisions by the Board requiring 90% quorum and 100% approval].

9.9.2 This clause does not apply to acceptance of persons who are automatically Class A Founding Members. A person may request to be included on the Register of Foundation Members by completing a form for this purpose, that has been approved by the Board, and by sending it to the Secretary. The Board must approve the request unless it has reasonable grounds to believe that the person does not fulfil the eligibility criteria set out in 9.4.1(b).

## **9.10 Payment of Membership fees if Membership accepted**

9.10.1 If the application for Membership is successful, and if requested by the Secretary, the Member must pay the relevant membership fees.

9.10.2 The amount of membership fees and the due date for payment will be decided by the Board.

## **9.11 Notice if Membership application rejected**

If the Board rejects a membership application, the Secretary must inform the applicant in writing within fourteen (14) days after the Board meeting at which the application is rejected.

## **9.12 Ceasing to be a Member**

### **9.12.1 Events when membership automatically ceases**

A Member automatically ceases to be a Member:

- (a) on their death
- (b) if the Member does not pay their Membership fees by the due date
- (c) if the Member purports to have transferred, sold, or to hold on trust, all or any part of, the rights of membership in contravention of clause 9.6 [Membership is not transferable], or
- (d) if the Member resigns.

### **9.12.2 Resignation of Member**

A Member may at any time resign from membership of the Company by giving notice in writing, signed by the Member and addressed to the Secretary. The resignation is effective from the time it is delivered to the Secretary in person or if addressed to the address for notices of the Company, at the time set out in clause 23 [Notices].

### **9.13 Decisions by the Board which affect Membership**

#### **9.13.1 Power of Board to censure, suspend or expel a Member**

The Board may pass a resolution to censure, suspend or expel a Member from the Company if a Member:

- (a) fails or refuses to comply with the Constitution (including any policy or procedure properly made), or
- (b) is guilty of conduct which in the opinion of the Board is prejudicial to the interests of the Company or achievement of its objects.

#### **9.13.2 Notice of resolution to censure, suspend or expel a Member**

At least fourteen (14) days before the Board meeting at which the resolution to censure, suspend or expel the Member is to be decided, notice of the meeting must be given to all Members of the Board, and the Member the subject of the resolution. The notice of meeting must contain the following details:

- (a) when and where the meeting will be held
- (b) the grounds for proposing the resolution
- (c) the wording of the intended resolution.

The Member the subject of the resolution must be invited to make a submission in their defence, in person at the meeting, with a friend, or in writing.

#### **9.13.3 Passing a resolution to censure, suspend or expel a Member**

A resolution of the Board to censure, suspend or expel a Member must be passed in accordance with the requirements of clause 17.4 [Decisions of the Board requiring 90% quorum and 100% approval].

### **9.14 Register of Members**

9.14.1 The Secretary must maintain a register of Members of the Company that sets out:

- (a) the names in full and address for notices of all Members
- (b) the date of admission to, and cessation of, membership, and
- (c) any other information required by the Law

9.14.2 The Secretary must immediately record that a membership has ceased in the Register of Members if:

- (a) an event in clause 9.12.1 occurs [Events when membership automatically ceases], or
- (b) a Member is expelled by resolution of the Board under clause 9.13 [Decisions by the Board that affect membership]

## **10 Composition of the Board**

### **10.1 Number of Directors**

10.1.1 The minimum number of Directors at any time is seven (7) and the maximum is twelve (12).

10.1.2 If the number of Directors at any time falls below the specified minimum, the Board must not act, except to fill the vacancies up to the minimum number required.

### **10.2 Membership of the Board**

10.2.1 The Board will consist of:

- (a) Maximum three (3) Stakeholder Directors who are persons nominated and elected by Class A Founding Members who are tenants
- (b) Maximum three (3) Stakeholder Directors who are persons nominated and elected by Class C Significant Contributor Members
- (c) Maximum six (6) Independent Directors nominated by any Member or the Board and elected by all Members

10.2.2 The Chief Executive Officer is not a member of the Board but may attend meetings of the Directors unless otherwise requested by the Board.

### **10.3 Criteria for Directors**

10.3.1 The following criteria must be met to be appointed as a Director:

- (a) the person must be at least 18 years of age, and
- (b) the person must not be disqualified from managing corporations under the Law.

10.3.2 Directors are not required to be Members of the Company.

10.3.3 The following factors, being relevant to either good governance of the Company, its financial performance or achievement of its primary object, must be taken into account when nominating and electing persons as Directors:

- (a) understanding of, and commitment to, social housing and the objects of the Company
- (b) knowledge and understanding of the obligations of Directors under the Law and other legislation relevant to the activities of the Company
- (c) experience relevant to social housing management
- (d) experience relevant to housing development or asset management;
- (e) experience in law, accounting or finance
- (f) experience in human resource management and personnel;
- (g) skills in strategic thinking
- (h) skills in political lobbying and representation
- (i) skills in organisational and financial analysis
- (j) skills in leadership.

## **11 Election of Directors**

### **11.1 Directors elected at AGM**

The members of the Board must be elected by the Company at the Annual General Meeting (referred to as the AGM).

### **11.2 Length of time Board Members hold office**

11.2.1 The Members of the Board shall hold office for three (3) years, after which time they must retire.

11.2.2 A retiring Director is eligible for re-election if the Director is eligible to nominate for the Board.

### **11.3 Nomination of Directors**

11.3.1 Nominations for Member Nominees must be:

- (a) in writing on the form approved by the Board,
- (b) signed by two Members who are eligible to nominate the person (according to the criteria set out in clause 10.2.1),
- (c) signed by the person who is nominated,
- (d) lodged with the returning officer at least seven (7) days before the date of the AGM.

### **11.4 Process of electing Board Members**

11.4.1 The Board must set a date for the AGM and must appoint a returning officer.

11.4.2 The returning officer's duties are to:

- (a) count the votes
- (b) decide whether doubtful votes are formal
- (c) ensure only Members entitled to vote do so
- (d) record and sign the result in writing; and
- (e) declare the result orally when called on to do so by the Chairperson.

11.4.3 If possible, the returning officer should not be a person who is contesting for a position on the Board.

11.4.4 Once the nominations close, the returning officer must display a list of the names of the candidates in a prominent position at the AGM.

11.4.5 Taking into account the criteria set out in clause 10.2.1, the returning officer will conduct the election by asking Members and proxies (if any) to vote for each candidate by secret ballot or on a show of hands, as resolved by the Board.

11.4.6 Candidates receiving the highest number of votes will fill the available positions in accordance with clause 10.2 [Membership of the Board].

## **12 Ceasing to be a Director**

### **12.1 When Director immediately loses office**

A Director immediately ceases to be a Director if the person:

- (a) ceases to be a Director by operation of the Law
- (b) resigns her or his office by notice in writing given to the Company, or
- (c) is absent from three (3) consecutive Board meetings without reasonable excuse accepted by the Board.

### **12.2 When General Meeting may vote to remove Director**

12.2.1 A Director ceases to be a Director if the General Meeting passes a resolution to remove the Director, including (without limitation) on the following grounds:

- (a) that there are reasonable grounds which show the person has not complied with their duties as a Director under the Constitution or the Law
- (b) that there are reasonable grounds which show that the person has a conflict of interest that has not been declared to the Board prior to consideration of the matter or that they have taken part in the Board's discussion or voted in relation to any contract, proposed contract with the Company or other matter in which the Director has a financial or personal interest which has the potential to be in conflict with the best interests of the Company
- (c) that there are reasonable grounds which show that the person has acted in a way that is not consistent with the Code of Conduct or policies and procedures that govern the Directors, or
- (d) that the person no longer has the confidence of the Members.

12.2.2 A resolution to remove a Director must be passed by at least three quarters (3/4) of the Members present in person or by proxy and entitled to vote.

### **12.3 Casual vacancies on the Board**

Taking into account the factors set out in clause 10.3 [Criteria for Directors], the Board may appoint a person to fill a casual vacancy on the Board. That person holds office until the end of the next AGM and is eligible for election at that meeting.

## **13 Powers of Directors**

### **13.1 To achieve the objects and good management of the Company**

The Board of Directors has power to do all things necessary to carry out the objects and good management of the Company except any powers that the Law or the Constitution requires the Company to exercise in General Meeting.

### **13.2 Policies and procedures**

The Directors may make, amend or repeal policies and procedures consistent with the Constitution for the internal management of the Company and its Members.

### **13.3 Establishment of subcommittees**

13.3.1 The Directors may delegate any of their powers (including this power to delegate) to a committee of Directors, a Director, an employee of the Company or any other person.

13.3.2 The Directors may revoke or vary any power delegated under this clause.

13.3.3 A committee or delegate must exercise the powers delegated in accordance with any directions of the Directors.

13.3.4 The exercise of a delegated power by the committee or delegate is as effective as if the Directors had exercised the power.

### **13.4 Establishment of advisory groups**

13.4.1 The Directors must establish an advisory group to provide advice to the Board in relation to community matters and encourage the involvement of members of the community in the planning and management of their housing.

13.4.2 The advisory group will comprise of a minimum of seven (7) members elected by Members who are tenants each year at the Annual General Meeting.

13.4.3 The terms of reference for the advisory group will be established by the Directors.

13.4.4 The advisory group, under its terms of reference, may be delegated by the Directors to establish other advisory groups to support and promote tenant participation and community engagement.

13.4.5 The terms of reference for, and outcomes achieved by, all advisory groups must be reviewed and presented annually by the Directors at the Annual General Meeting.

### **13.5 Defects in appointment**

13.5.1 All acts done by a meeting of the Directors, committee of Directors, or person acting as a Director are as valid as if each person was duly appointed and qualified to be a Director or a member of the committee.

13.5.2 Clause 13.5.1 applies even if it is afterwards discovered that there was some defect in the appointment of a person as Director, or a member of a committee, or that a person so appointed was disqualified.

### **13.6 Secretary**

The Directors must appoint or remove a Secretary to the Company in accordance with the Law.

### **13.7 Directors remuneration**

No payment will be made to any Director of the Company other than for reasonable expenses that have been previously approved by the Board and which are payment for:

- a) out of pocket expenses incurred by the Directors in the performance of any duty as Director

- b) Subject to the provisions which relate to the declaration and managing of conflicts of interest under clause 17.8 and the Law, any service rendered to the Company by the Director in a capacity other than in the capacity as Director and where the amount payable is not more than the amount which commercially would be reasonable payment for the service.

## **14 General Meetings**

### **14.1 Annual General Meetings**

#### **14.1.1 Date, time, place and notice of an AGM**

An AGM must be held at a date, time and place decided by the Board and in accordance with the Law.

Members must be given at least twenty-one (21) days notice of the date, time and place for the AGM.

#### **14.1.2 Holding an AGM each year**

The Board must ensure an AGM is held each calendar year and within (5) five months after the end of the financial year.

#### **14.1.3 Business at an AGM**

- (a) An AGM must be held in accordance with the Law.
- (b) The business of an AGM must include the following:
  - (i) consideration of the annual financial report, Directors report and auditor's report
  - (ii) consideration of the terms of reference and achievements of advisory groups established under clause 13.4 to promote and support tenant participation and community engagement
  - (iii) election of Directors, and
  - (iv) confirmation of the appointment of the current auditor or election of a new auditor.

#### **14.1.4 Voting and Quorum at an AGM**

The rules relating to voting and quorum at General Meetings apply to the Members at an Annual General Meeting.

### **14.2 General Meetings**

#### **14.2.1 Calling General Meetings**

- (a) General Meetings may be called by the Board.
- (b) A General Meeting must be called by the Directors if requested by Members with at least 5% of the votes that may be cast at a General Meeting.

- (c) The Directors must call a General Meeting within twenty-one (21) days after a request is given to the Secretary by the Members and must hold the meeting no later than 2 months after the request is made.
- (d) Members with at least 5% of the votes that may be cast at a General Meeting may themselves call a General Meeting.

#### **14.2.2 Notice of General Meetings**

Members must be given at least twenty-one (21) days notice of the date, time and place for a General Meeting and the notice must state the general nature of the business of the meeting.

#### **14.2.3 Attendance at General Meetings**

- (a) General Meetings are open to all Members and any Member may speak at such meetings.
- (b) Directors may attend and speak at any General Meeting.

#### **14.3 Quorum at General Meetings**

- 14.3.1 No business may be conducted at a General Meeting unless a quorum of Members is present.
- 14.3.2 An item of business must not be dealt with unless a quorum of Members is present at the time when the meeting proceeds to business.
- 14.3.3 A quorum of Members is not less than thirty (30) Members.
- 14.3.4 For the purpose of calculating quorum, a Member may be counted if the Member attends the meeting in person or by proxy.

#### **14.4 Voting at General Meetings**

##### **14.4.1 Members may vote in person or by proxy**

Voting rights may be exercised by Members by:

- (a) personally attending a meeting to exercise a vote, or
- (b) appointing a proxy to exercise a vote on their behalf.

##### **14.4.2 Resolutions must be passed by the required majority**

- (a) Every Member has one (1) vote and in a secret ballot every Member present in person, or by proxy, has one (1) vote.
- (b) Subject to clause 16 [Changing the Constitution], a resolution of the General Meeting must be passed by a majority of Members who are entitled to vote and who are present in person, or by proxy.
- (c) In the case of votes being equal, whether on a show of hands or on a secret ballot, the resolution fails.

#### **14.4.3 Chairperson must not vote**

- (a) The Chairperson may not exercise a deliberative vote or a casting vote while performing the role of Chairperson.
- (b) If the Chairperson wishes to exercise a vote on an agenda item, the Chairperson must appoint another person willing to sit as Chairperson while that item of business is dealt with.
- (c) If the Chairperson has a real or potential conflict of interest in a matter for discussion, the Chairperson shall declare the conflict, step down and hand the chair to another person willing to act in their place.

#### **14.4.4 Voting on resolutions**

- (a) The Board must decide how Members exercise their voting intentions. This may be by:
  - (v) secret ballot
  - (vi) show of hands, or
  - (vii) voices.
- (b) If the Board resolves to hold the vote by secret ballot, the Chairperson must appoint two persons to conduct the ballot.
- (c) Unless a secret ballot is properly requested, a declaration by the Chairperson that a resolution has been carried unanimously, or by a particular majority, or lost, and an entry to that effect in the minute book of the Company, is conclusive evidence of the result of the vote on the resolution.

#### **14.4.5 Requesting a secret ballot**

- (a) If either the Chairperson or at least 5% of the Members present and entitled to vote, in person or by proxy, so demand, voting on any resolution must be by secret ballot. The demand for a secret ballot must be made before the resolution is voted on by show of hands or on the voices.
- (b) If a secret ballot is properly required, it must be taken immediately and in the manner that the Chairperson directs.
- (c) The demand for a secret ballot may be withdrawn.

#### **14.4.6 Unsuccessful resolutions**

If a resolution is unsuccessful, the resolution may not be put again to the same meeting.

### **14.5 Chairperson of General Meetings**

14.5.1 Subject to clause 14.5.2, the Chairperson of the Board will preside as Chairperson at every General Meeting.

14.5.2 Where a General Meeting is held and there is no Chairperson of the Board, or the Chairperson of the Board is not present within fifteen (15) minutes after the time

appointed for the meeting, or does not wish to act as Chairperson of the meeting, the Members may elect one of their number to be Chairperson of the meeting.

## **14.6 Adjourned meetings**

### **14.6.1 Adjournment when a quorum is present**

- (a) The Chairperson may, with the consent, or at the direction, of any meeting at which a quorum is present adjourn the meeting to another time and place.
- (b) No business will be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) If a meeting is adjourned for less than thirty (30) days, notice of the adjourned meeting is not required.
- (d) If a meeting is adjourned for thirty (30) days or more, notice of the adjourned meeting must be given in the same way as the original meeting, except that it is not necessary to state the business to be transacted at the adjourned meeting.

### **14.6.2 Adjournment when a quorum is not present**

If within thirty (30) minutes from the time appointed for holding a General Meeting a quorum is not present:

- (a) the meeting must be dissolved if the meeting was convened by a requisition of Members, or
- (b) in any other case, the meeting must be adjourned to the same day in the next week at the same time and place or as the Chairperson appoints.

### **14.6.3 Quorum at an adjourned meeting**

If at an adjourned meeting a quorum is not present within thirty (30) minutes from the appointed time for holding the meeting, the Members that are present will be taken to constitute a quorum.

## **14.7 Holding General Meetings by electronic means**

14.7.1 A General Meeting of Members may be held in two (2) or more places linked together by any technology that:

- (a) gives the Members a reasonable opportunity to participate in proceedings
- (b) enables the Chairperson to be aware of proceedings in each place, and
- (c) enables the Members in each place to vote on a show of hands and on a secret ballot.

14.7.2 If a meeting of members is held in two (2) or more places under this clause, a Member present at one of the places is taken to be present at the General Meeting.

## **15 Proxies**

### **15.1 Voting by Proxy**

15.1.1 The appointment of a proxy by a Member must be:

- (a) in writing in a form approved by the Board, and
- (b) signed by the Member appointing the proxy.

15.1.2 The proxy must be received by the Company at least two (2) days before the date set for the General Meeting.

15.1.3 Unless the proxy form complies with all of the requirements set out in this clause, and any policy or procedure stipulated by the Board, the appointment of a proxy is not valid and the proxy vote must not be counted.

15.1.4 A person properly appointed as proxy must declare at the beginning of the meeting that she or he is holding an appointment as proxy for a Member.

15.1.5 A proxy may vote as the proxy thinks fit where no manner of voting is indicated on the form by the Member appointing the proxy.

15.1.6 The person properly appointed as proxy is entitled to exercise the proxy vote unless the proxy appointment is revoked by the Member.

## **16 Changing the Constitution**

### **16.1 Passing Special Resolutions**

Subject to clause 16.2:

- (a) The Constitution may be changed by passing a special resolution and by giving at least twenty-one (21) days notice to Members of the proposed resolution, or as provided by the Law.
- (b) A special resolution must be passed by at least three-quarters (3/4) of Members attending personally, or by proxy, and entitled to vote, or as provided by the Law.

### **16.2 Special Resolutions requiring approval by 90% of the General Meeting and 100% of the Board**

16.2.1 A special resolution proposing any change to the following clauses must be passed in accordance with the additional requirements contained in 16.2.2:

- (a) Nature of the Company (clause 2)
- (b) Objects of the Company (clause 4)
- (c) Income and property of the Company is not for Member's profit (clause 6)
- (d) Income and property of Company if Company wound up or ceases to be endorsed (clause 7)
- (e) Membership is not transferable (clause 9.6), and
- (f) Changing the Constitution (clause 16)

16.2.2 A special resolution to make a change to the clauses of the Constitution listed in 16.2.1, must fulfil the following additional requirements:

- (a) 90% of Members must be present at the General Meeting (in person or by proxy) at which the resolution is proposed

- (b) the resolution must be passed by a vote in the affirmative of at least 90% of Members present and entitled to vote
- (c) Following the General Meeting, the Board must immediately convene a Board meeting to consider the resolution as passed by the General Meeting
- (d) A quorum of 100% of the members of the Board must be present at the meeting, and
- (e) A resolution of the Board approving the terms of the special resolution must be passed by a vote in the affirmative by all Directors entitled to vote.

16.2.3 A special resolution to change a clause of the Constitution listed in 16.2.1 which is not passed in accordance with this clause is invalid, unenforceable and of no effect.

## **17 Board meetings**

### **17.1 Calling Board meetings**

17.1.1 The Board may meet to consider and decide business, adjourn or regulate its meetings as it sees fit.

17.1.2 A member of the Board may at any time, and the Secretary must on the request of a member of the Board, call a meeting of the Board.

### **17.2 Quorum at Board meetings**

17.2.1 A quorum of the Board is more than half of the number of Directors elected (subject to clause 17.4 [Decisions by the Board requiring 90% quorum and 100% approval]).

17.2.2 An item of business must not be dealt with unless a quorum of the Board is present at that time.

### **17.3 Voting at Board meetings**

17.3.1 Each member of the Board present has one (1) vote.

17.3.2 Subject to clauses 16 [Changing the Constitution] and 17.4 [Decisions by the Board requiring 90% quorum and 100% approval], a resolution of the Board must be passed by a majority of Directors who are entitled to vote and who are present in person.

17.3.3 In the case of an equal number of votes for and against a resolution, the resolution fails.

17.3.4 Only Directors may vote at Board meetings.

### **17.4 Decisions by the Board requiring 90% quorum and 100% approval**

17.4.1 The following resolutions must be passed by the Board in accordance with the additional requirements set out in clause 17.4.2:

- (a) to accept or reject an application for membership under clause 9.9 [Applications must be decided by the Board];
- (b) to censure, suspend or expel a Member under clause 9.13 [Decisions by the Board which affect membership].

17.4.2 The Board must pass a resolution listed in clause 17.4.1 in the following way:

- (a) at least 90% of the members of the Board must be present at the meeting; and
- (b) the resolution of the Board must be passed by a vote in the affirmative by all Directors present and entitled to vote at the meeting.

## **17.5 Resolutions in writing**

17.5.1 Subject to clause 16.2 [Special Resolutions requiring approval by 90% of the General Meeting and 100% of the Board] and clause 17.4 [Decisions by the Board requiring 90% quorum and 100% approval], a resolution in writing and acknowledged as being accepted by at least three-quarters (3/4) of the members of the Board, is as valid as if it had been passed at a meeting of the Board held in person.

17.5.2 Before a resolution may be passed in writing, the Secretary must give notice to all members of the Board that a matter is to be resolved in this way.

## **17.6 Chairperson of Board meetings**

17.6.1 The Directors will elect one of their number to be Chairperson of the Board.

17.6.2 Where a Board meeting is held and the Chairperson of the Board is not present within fifteen (15) minutes after the time appointed for the meeting, or does not wish to act as Chairperson of the meeting, the Directors may elect one of their number to be Chairperson of the meeting.

## **17.7 Chairperson of the Board must not vote**

17.7.1 The Chairperson may not exercise a deliberative vote or a casting vote while performing the role of Chairperson.

17.7.2 If the Chairperson wishes to exercise a vote on an agenda item, the Chairperson must appoint another person willing to sit as Chairperson while that item of business is dealt with.

17.7.3 A Director may object to the Chairperson presiding over a discussion or exercising a vote on the grounds that the Chairperson has a real or potential conflict of interest.

17.7.4 The question of whether the Chairperson has a real or potential conflict of interest will be decided by a majority vote of the Board. The decision of the Board is binding on the Chairperson.

## **17.8 Managing a conflict of interest on the Board**

17.8.1 A Director must declare any conflict of interest in a matter for discussion by the Board and not take part in the Board's discussion nor vote in relation to any contract, proposed contract with the Company or other matter in which the Director has a financial or personal interest which has the potential to be in conflict with the best interests of the Company.

17.8.2 If a Director does vote in these circumstances, the Director's vote will not be counted.

17.8.3 A Director may object to another Director taking part in a discussion and exercising a vote on the grounds that the other Director has a real or potential conflict of interest in the matter.

17.8.4 The question of whether the Director has a real or potential conflict of interest will be decided by a majority vote of the Board. The decision of the Board is binding.

17.8.5 The failure of a Director to properly declare and manage any conflict of interest may be grounds for their removal under clause 12.2.

## **17.9 Holding Board meetings by electronic means**

A Board meeting may be held by way of teleconference or video conference or any other electronic means and it will be as valid as if it had been held in person.

## **18 Minutes of meetings**

### **18.1 Keeping Minutes of meetings**

18.1.1 The Board must ensure that true and accurate minutes are made and kept of the persons present, proceedings and resolutions of all meetings of the Company, subcommittees and Board.

18.1.2 The minutes must be signed by the Chairperson of the meeting at which the proceedings took place or by the Chairperson of the next meeting.

### **18.2 Minutes to be available for inspection by Members**

The minutes of meetings must be available for inspection by the Members at all reasonable times on the request of a Member to the Secretary.

## **19 Company seal**

19.1 The Company may have a common seal.

19.2 The Board must provide for the safe keeping of the seal which may only be used as authorised by the Board.

19.3 Every document to which the seal is affixed must be signed by two Directors, or a Director and another person appointed by the Board to countersign the document.

19.4 This clause does not limit the ways in which the Company may execute a document.

## **20 Accounts**

20.1 The Board must ensure proper accounting and other records are kept and must distribute copies of every profit and loss account and balance sheet (including any attachments) accompanied by a copy of the auditor's report as required by the Law.

20.2 The Board will determine at what times and places and on what conditions the accounting and other records of the Company must be open for the inspection of Members.

20.3 The books of account will be kept at the registered office of the Company or at any other place the Board thinks fit.

## **21 Negotiable Instruments**

All negotiable instruments of the Company must be executed by the persons and in the manner the Directors decide.

## **22 Auditors**

The Company must appoint auditors, whose duties will be regulated according to the Law.

## **23 Notices**

### **23.1 Member must notify of address for notices**

23.1.1 Each Member must notify the Secretary of an address for notices and give written notification of any change in their address for notices within fourteen (14) days after any change.

23.1.2 If a Member does not give an address for service of notices, the Member is not entitled to receive notices.

### **23.2 Notice to Members**

23.2.1 A notice may be given by the Company to any Member or by a Member to the Company in the following ways:

- (a) by personal service at the address for notices
- (b) by sending it by post to the address for notices
- (c) by sending it by facsimile to the address for notices
- (d) by sending it by electronic mail to the address for notices.

23.2.2 The signature to any notice may be given in writing or in a manner as agreed by the Board.

### **23.3 Time of notice**

Notice to a Member is taken to have been given at the following times:

- (a) a notice sent by post - on the day on which the letter would be delivered in the ordinary course of the post
- (b) a notice sent by facsimile - on the day of dispatch providing the Company does not receive a failed transmission report and is not notified by the recipient by close of business of the next business day following the day of dispatch that the transmission was illegible
- (c) a notice sent by electronic mail - on the day of dispatch, providing that the Company does not receive notice from its internet service provider that the email has not been delivered.

### **23.4 Notice to the Company**

A Member may give notice to the Company by:

- (a) leaving it at the registered office of the Company
- (b) sending it by post to the registered office of the Company
- (c) sending to the facsimile number of the registered office of the Company
- (d) sending it to the electronic address nominated by the Company, or
- (e) such other manner authorised by Law.

## **24 Indemnity**

24.1 To the extent permitted by law and without limiting the powers of the Company, the Company must indemnify each person who is, or has been, a Director or Secretary of the Company against any liability which results from facts or circumstances relating to the person serving or having served as a Director or Secretary in relation to the Company, other than:

- (a) a liability owed to the Company
- (b) a liability for a pecuniary penalty order under section 1317G or a compensation order under section 1317H; or
- (c) a liability that is owed to someone (other than the Company) and did not arise out of conduct in good faith.

24.2 This clause does not apply to a liability for legal costs other than for legal costs incurred in defending an action for liability if the costs are incurred:

- (a) in defending or resisting civil proceedings in which the person is found to have a liability for which they could not be indemnified under clause 24.1(a), or
- (b) in defending or resisting criminal proceedings in which the person is found guilty, or
- (c) 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 a Court to be established, or
- (d) in connection with proceedings for relief to the person under the Law in which the Court denies the relief.

24.3 This clause does not apply to costs incurred in responding to actions brought by ASIC or a liquidator as part of an investigation before commencing proceedings for a court order.

24.4 To the extent permitted by law and without limiting the powers of the Company, the Directors may authorise the Company to, and the Company may enter into any indemnity in favour of, or insurance policy for the benefit of, a person who is or has been a Director, Secretary, auditor, employee or other officer of the Company or of a subsidiary of the Company. That indemnity or insurance policy may be in such terms as the Directors approve and, in particular, may apply to acts or omissions before, or after, the time of entering into the indemnity or the policy.

24.5 The benefit of each indemnity given in this clause continues, even after its terms or the terms of this clause are modified or deleted, in respect of a liability arising out of acts or omissions occurring before the modifications or deletion.

## **25 Copy of Constitution and Policies and Procedures**

The Secretary must provide a copy of the Constitution, including the policies and procedures, to a Member within seven (7) days if:

- (a) the Member requests a copy in writing, and
- (b) the Member pays a reasonable fee as requested by the Secretary.

## 26 Definitions and Interpretation

### 26.1 Definitions

The following definitions apply to this Constitution unless they are specifically excluded.

<b>Term used</b>	<b>Meaning</b>
<i>address for notices</i>	means the registered office of the Company or the postal address, facsimile or email address given by the Company or the Member for the purposes of receiving notices.
<i>Board</i>	means the Board of Directors of the Company made up of persons elected or appointed as Directors under the Constitution.
<i>Chairperson</i>	means any person appointed to perform the duties of Chairperson at a Board Meeting or General Meeting as set out in the Constitution.
<i>Company</i>	means <b>Jacaranda Housing</b> , incorporated in Queensland as a company limited by guarantee.
<i>Constitution</i>	means this document.
<i>Housing</i>	means residential accommodation by way of a house, duplex, home unit, boarding house, retirement village, nursing home, hostel or other means.
<i>given</i>	means given according to the provisions for notices in clause 23.
<i>Housing Stress</i>	means the resultant hardship faced when an individual or family in the lowest 40% to 50% of the income distribution incurs housing and housing related costs in excess of 30% of their household income.
<i>Independent Directors</i>	Persons nominated and elected by the Members who have declared any conflict or interest, or potential conflict of interest
<i>in writing</i>	means any form of representing words in a printed form including printing, facsimile or by electronic means.

<i>Law</i>	means the <i>Corporations Act 2001</i> and the Corporations Regulations.
<i>Member</i>	means a person registered as a Member in the register of Members of the Company.
<i>Members Present</i>	means the Members present at a meeting personally or by proxy.
<i>Register of Foundation Members</i>	means a document that lists the names of persons who: <ul style="list-style-type: none"> <li>(a) on the date of registration of the Company, are properly recorded as members on the register of members of New Farm Housing Cooperative Limited, or</li> <li>(b) persons who have been approved as Founding Members by the Board under clause 9.9.2.</li> </ul>
<i>Replaceable Rules</i>	means all or any of the replaceable rules contained in the Law from time to time.
<i>seal</i>	means the seal of the Company affixed in accordance with clause 19.
<i>Secretary</i>	means any person appointed by the Board to perform the duties of a Secretary of the Company.
<i>Stakeholder Directors</i>	Persons nominated and elected by a specific Class of Members
<i>Underprivileged People</i>	means people affected by poverty, disability or other need requiring benevolent relief and which may include persons in Very Low Income Households and people experiencing Housing Stress.
<i>Very Low Income Households</i>	means people receiving social security payments as their sole income source

## **26.2 Interpretation**

26.2.1 Headings are used for convenience only and do not affect interpretation.

26.2.2 The following rules of interpretation apply unless the context requires otherwise:

- (a) A gender includes all genders.
- (b) Singular includes plural and conversely.

- (c) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments issued under it.
- (e) Except in so far as a contrary intention appears in this Constitution, an expression used in the Constitution that relates to a particular provision of the Law has the same meaning as in that provision of the Law.