

Constitution

Colonial Mutual Superannuation Pty Ltd

ACN 006 831 983

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Corporations Act 2001
Company Limited by Shares
Constitution of Colonial Mutual Superannuation Pty Ltd

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1 Definitions and Interpretation

1.1 Definitions

In this constitution, unless the contrary intention appears:

article means a provision of this constitution as amended or added to from time to time;

capital or **share capital** means the share capital for the time being of the company;

Chief Executive Officer means the person who is primarily and directly responsible to the directors of the ultimate holding company for the general and overall management of the ultimate holding company;

Chief Financial Officer means the person who is primarily responsible for financial affairs in relation to the ultimate holding company, and who is directly responsible for those matters to either the directors of the ultimate holding company or to the Chief Executive Officer;

company means **Colonial Mutual Superannuation Pty Ltd**;

constitution means this constitution as amended or added to from time to time;

director means a person holding office as a director of the company, and where appropriate includes an alternate director;

directors means all or some of the directors acting as a board;

register means the register of members to be kept pursuant to the Corporations Act;

secretary means a person or persons appointed by the directors pursuant to article 7.1 to perform the duties of secretary of the company and includes an acting secretary;

share means a share in the capital of the company;

shareholder means a person entered in the register as a member of the company;

ultimate holding company means Commonwealth Bank of Australia.

1.2 Interpretation

In this constitution, unless a contrary intention appears:

- (a) headings are inserted for convenience only and do not affect the construction of this constitution;

- (b) words importing any gender include the other genders, words importing persons include bodies corporate and words importing the singular include the plural and vice versa;
- (c) a reference to a statute (or to a provision of a statute) means the statute or provision as modified or amended and in operation for the time being, or any statute or provision enacted in lieu thereof and includes any bylaw, order, regulation, rule or other statutory instrument for the time being in force under the statute or provision;
- (d) unless the contrary intention appears in this constitution an expression has, in a provision of this constitution that deals with a matter dealt with by a particular provision of the Corporations Act, the same meaning as in that provision of the Corporations Act.

1.3 Replaceable Rules

The provisions of the Corporations Act that apply as replaceable rules to a company do not apply to the company except in so far as they are repeated (or taken to be repeated) in this constitution.

2 Issues of Shares

2.1 Directors to Issue Shares

- (a) Without prejudice to any special rights previously conferred on the holders of any existing shares or class of shares but subject to the Corporations Act, shares in the company shall be under the control of the directors who may issue, or grant rights or options in respect of, or otherwise dispose of, shares for such price, upon such conditions, at such times and with such preferred, deferred or other special rights or restrictions, whether with regard to dividends, voting, return of capital or otherwise as the directors determine to:
 - (i) the ultimate holding company or a wholly owned subsidiary of the ultimate holding company; or
 - (ii) a person or an entity which is not a wholly owned subsidiary of the ultimate holding company provided that they obtain the prior written consent of the Chief Executive Officer or Chief Financial Officer.
- (b) The directors may issue shares paid up in full on allotment or partly paid in such amounts as the directors think fit.
- (c) The directors shall have the right to settle the manner in which fractions of a share, however arising, are to be dealt with.

2.2 Recognition of Interests

- (a) Except as otherwise required by law or provided by this constitution, the company is entitled to treat the registered holder of a share as the absolute owner of that share and is not compelled in any way to recognise, or be bound by, any equitable, contingent, future or partial claim to or interest in a share on the part of any other person except an absolute right to ownership in the registered holder, even if the company has notice of that claim or interest.

- (b) Shares held by a trustee, may, with the consent of the directors, be marked in the register in such a way as to identify them as being held subject to the relevant trust, but nothing in this article 2.2(b) limits the operation of article 2.2(a).

2.3 Right to and Delivery of Share Certificate

Where the company is required by the Corporations Act to issue share certificates, a shareholder is entitled without payment to receive a certificate in respect of the shares registered in the shareholder's name.

3 Transfer of Shares

3.1 Instrument of Transfer

- (a) Subject to this constitution, a shareholder may transfer all or any of that shareholder's shares by instrument in writing in registrable form or, subject to the Corporations Act, by any other means that the directors approve.
- (b) A transfer referred to in article 3.1(a) shall be executed by or on behalf of the transferor and the transferee or may be executed or validated otherwise in accordance with the Corporations Act and if required by law to be stamped it shall be stamped.

3.2 Registration Procedure

- (a) The instrument or other evidence of transfer must be delivered or lodged for registration at the registered office of the company or such other place as the directors may from time to time determine, and if so required by the directors shall be accompanied by any certificate of the shares to which it relates and such other information as the directors properly require to show the right of the transferor to make the transfer, and thereupon the company shall, subject to article 3.3 and the powers vested in the directors by this constitution, register the transferee as a shareholder.
- (b) A transferor of shares remains the holder of the shares transferred until the transfer is registered and the name of the transferee is entered in the register in respect of the shares and a transfer of shares shall not pass the right to any dividends declared on those shares until registration.
- (c) On registration of a transfer of shares, the company shall cancel the certificate (if any) and, if so required by the Corporations Act, issue a new certificate in the name of the transferee for the shares transferred and in the name of the transferor for the balance of shares retained (if any).
- (d) The company shall retain every instrument or other record of transfer which is registered for such period as the directors determine.

3.3 Directors Power to Decline to Register

The directors shall not register any transfer of shares without the written consent of the Chief Executive Officer or Chief Financial Officer except where the transfer is to the ultimate holding company or a wholly owned subsidiary of the ultimate holding company.

4 The Directors

4.1 Number and Appointment of Directors

- (a) The number of directors is the number, not less than the minimum number required by the Corporations Act, who are appointed by the ultimate holding company from time to time.
- (b) The ultimate holding company at all times shall have the right to appoint the directors of the company and to nominate the chairman of the board of directors. A notice or other document forwarded to the secretary of the company which has been approved or otherwise authenticated by the Chief Executive Officer or by any other person acting under authority of the ultimate holding company whether express or implied shall be conclusive evidence of the appointment of a director or of the chairman of the board of directors. The directors in office at the time of the adoption of this constitution shall continue in office subject to this constitution.

4.2 Removal of a Director

The ultimate holding company may remove any director or chairman of the board of directors of the company. A notice or other document forwarded to the secretary of the company which has been approved or otherwise authenticated by the Chief Executive Officer or by any other person acting under authority of the ultimate holding company whether express or implied shall be conclusive evidence of the removal of a director or of the chairman of the board of directors.

4.3 Remuneration of Directors

- (a) The directors shall be entitled to such remuneration, if any, for their services as the ultimate holding company may from time to time determine. Any such remuneration shall be deemed to accrue from day to day. In addition the company shall pay all expenses properly incurred by the directors in connection with the business of the company.
- (b) A director may hold any other office or place of profit (except that of auditor) under the company in conjunction with the office of director and on such terms as to remuneration and otherwise as the company may from time to time determine.

4.4 Director's Interest

- (a) Subject to the Corporations Act:
 - (i) no director shall be disqualified by his or her office from holding any office or place of profit (other than that of auditor) under the company and any director may be or become a director of or otherwise hold office or a place of profit in any other body corporate in which the company may be interested as shareholder or otherwise; and
 - (ii) any director may contract or make any arrangement with the company whether as vendor, purchaser, broker, solicitor or accountant or other professional person or otherwise. Any contract or arrangement entered or to be entered into by or on behalf of the company in which any director shall be in any way interested shall not be avoided for that reason.
- (b) Any director:

- (i) holding any office or place of profit under the company; or
- (ii) being a director of or otherwise holding office or a place of profit in any other body corporate in which the company may be interested as shareholder or otherwise; or
- (iii) contracting or arranging with the company as set out in article 4.4(a)(ii),

shall not by reason only of any of those facts or any interest resulting from them or the fiduciary relationship thereby established be liable to account to the company for any remuneration or other benefits so accruing.

- (c) Each director must disclose his or her interest in a matter (including a contract of the type referred to in article 4.4(a)(ii)) to the other directors, and to the extent, and in the manner, required by the Corporations Act, a director who has a material personal interest in a matter that relates to the affairs of the company must give notice of the interest to the other directors of the company. The secretary shall record the nature and extent of any such disclosure in the minutes of the relevant meeting at which the notice is given or tabled.
- (d) A director may be present during the consideration of, and vote in respect of, any contract or proposed contract or arrangement or other matter in which he or she whether directly or indirectly has a material personal interest if:
 - (i) the director is permitted to be present and to vote under the Corporations Act; and
 - (ii) the director has first disclosed his or her interest to the directors,
 and if the director is not permitted to vote under this article but does so vote then that vote may not be counted.
- (e) Subject to any law, the restrictions contained in article 4.4(d) may at any time or times be suspended or relaxed to any extent and either prospectively or retrospectively by resolution of the company made in accordance with the Corporations Act.
- (f) Subject to the Corporations Act, a director, or a director's firm, may act in a professional capacity (other than as auditor) for the company and he or she or the firm shall be entitled to remuneration for professional services as if he or she were not a director.
- (g) A director may, notwithstanding his or her interest, and whether or not he or she is entitled to vote or does vote, participate in the execution of any instrument by or on behalf of the company and whether by signing or sealing the same or otherwise.
- (h) Directors may vote in respect of a contract for insurance of the company or its officers against a liability incurred by officers as officers of the company or a related body corporate.

4.5 Vacation of Office of Director

In addition to the circumstances in which the office of a director becomes vacant by virtue of the Corporations Act, the office of a director becomes vacant if the director:

- (a) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;

- (b) resigns his or her office by notice in writing to the company;
- (c) is absent without the consent of the directors from meetings of the directors held during a period of 6 months unless the directors resolve that his or her office shall not be vacated;
- (d) becomes an insolvent under administration;
- (e) is directly or indirectly interested in any contract or proposed contract with the company and fails to declare the nature of his or her interest, unless the directors resolve that his or her office shall not be vacated;
- (f) becomes prohibited from being a director pursuant to the Corporations Act, an order made pursuant to the Corporations Act or any other legislation applicable to directors of the company;
- (g) dies or is removed from office by the ultimate holding company in accordance with article 4.2; or
- (h) was an employee of the ultimate holding company or a related body corporate when appointed as a director and ceases to be so employed and notice of that cessation of employment has been given to the secretary of the company by a person acting under the authority of the ultimate holding company.

4.6 Alternate Director

- (a) The ultimate holding company at all times shall have the right to appoint, in the manner provided for in article 4.1(b), any person to act as an alternate director in the place of any named director of the company at all or any times the named director is for any reason unable to attend a meeting of directors or to act personally.
- (b) The ultimate holding company may remove an alternate director in the same manner provided for in article 4.2. An alternate director shall also cease to hold the office of director if any of the circumstances set out in article 4.5 are applicable to that alternate director or if the director in respect of whom the alternate director is appointed ceases to hold office.
- (c) An alternate director is subject to the same rights and obligations as the director for whom the alternate director is acting, when the alternate director acts in place of that director.

5 Powers and Duties of Directors

5.1 Directors to Manage Company

- (a) The business of the company shall be managed by, or under the direction of, the directors, who may exercise all such powers of the company as are not, by the Corporations Act or this constitution required to be exercised by the company in general meeting or by a resolution of the shareholders.
- (b) Without limiting the generality of article 5.1(a), the directors may exercise all the powers of the company to borrow or raise money, to charge any property or business of the company and to issue debentures or give any other security for a debt, liability or obligation of the company or of any other person.
- (c) Subject to any applicable law and to any duties imposed on directors by law, in managing the business and exercising the powers of the company, the

directors are authorised to act in the best interests of the ultimate holding company.

5.2 Appointment of Attorney

- (a) The directors may, by power of attorney, appoint any person or persons to be the attorney or attorneys of the company for such purposes, with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the directors), for such period and subject to such conditions as they think fit.
- (b) Any such power of attorney may contain such provisions for the protection and convenience of persons dealing with the attorney as the directors think fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in him or her.

5.3 Managed Investment Schemes

Without limiting the generality of the powers of the directors under article 5.1(a) above, the directors may exercise all the powers of the company:

- (a) to appoint an agent, or otherwise engage a person, to do anything that the company is authorised to do in connection with any managed investment scheme; and
- (b) to establish a compliance committee for the purposes of the requirements of Part 5C.5 of the Corporations Act.

5.4 Execution of Company Cheques

All cheques, promissory notes, bankers' drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the company, must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner and by such persons as the directors determine from time to time.

6 Proceedings of Directors

6.1 Directors' Meetings

- (a) The directors may meet together for the despatch of business and adjourn and otherwise regulate their meetings as they think fit.
- (b) A director may at any time, and the secretary shall on the request of a director, convene a meeting of the directors. Notice of every directors' meeting and of every adjourned meeting shall be given to every director and to the secretary.
- (c) A directors' meeting may be called or held using any technology consented to by each director. The consent may be a standing one. A director may only withdraw consent within a reasonable period before the meeting.
- (d) The chairman of the board of directors appointed under article 4.1(b) shall act as chairman at meetings of directors. If a chairman has not been appointed under article 4.1(b), or if the chairman has signified his or her inability to be present at a meeting or is not present and able and willing to act within ten minutes after the time appointed for a meeting, the directors present shall elect one of their number to be chairman of the meeting.

6.2 Quorum for Directors' Meeting

At a meeting of directors, no business shall be transacted unless a quorum is present. The number of directors whose presence is necessary to constitute a quorum is two unless the directors determine otherwise. In determining whether a quorum is present, a director participating in a meeting held using technology consented to by each director in accordance with article 6.1(c) shall be taken to be present at the meeting.

6.3 Questions Decided by Majority

- (a) Subject to this constitution, questions arising at a meeting of directors shall be decided by a majority of votes of directors present and voting and any such decision shall for all purposes be deemed a decision of the directors.
- (b) In the event of there being an equality of votes, the chairman of the meeting, in addition to his or her deliberative vote, shall have a casting vote.

6.4 Written Resolution by Directors

- (a) If all the directors have signed a document containing a statement that they are in favour of a resolution of the directors in terms set out in the document, a resolution in those terms shall be deemed to have been passed at a meeting of the directors held on the day and at the time at which the document was last signed by a director.
- (b) For the purposes of article 6.4(a), two or more separate copies of a document may be used for signing by directors if the wording of the resolution and statement is identical in each copy.
- (c) A reference in article 6.4(a) to all the directors does not include a reference to:
 - (i) a director who, at a meeting of directors, would not be entitled to vote on the resolution;
 - (ii) a director who disqualifies himself or herself from considering the resolution in question; and
 - (iii) any director on leave of absence approved by the directors.
- (d) For the purposes of articles 6.4(a) and 6.4(b):
 - (i) a statement sent electronically by a director to an agreed electronic address that he or she is in favour of a specified resolution shall be taken to be a document containing that statement and duly signed by the director. Such document shall be taken to have been signed by the director at the time of its receipt at the agreed electronic address; and
 - (ii) a director may consent to a resolution by telephoning the secretary or the chairman and signifying assent to the resolution and clearly identifying its terms.

6.5 Validity of Acts of Directors

All acts done by any meeting of the directors or of a committee of directors or by any person acting as a director are, notwithstanding that it is afterwards discovered that there was some defect in the appointment of a person to be a director or a member of the committee, or to act as a director, or that a person so appointed was disqualified, or that proper notice had not been given, as valid as if the person had been duly

appointed and was qualified to be a director or to be a member of the committee or proper notice had been given, as the case may be.

6.6 Committee of Directors

Subject to any applicable law, the directors may delegate any of their powers to a committee or committees consisting of at least one director and such other persons as they think fit. A committee must exercise the powers delegated to it in accordance with any directions of the directors and a power so exercised shall be deemed to have been exercised by the directors. The provisions of this constitution relating to proceedings of directors apply so far as they are capable of application and with any necessary changes to meetings of any such committees.

6.7 Delegation to a Director

- (a) The directors may delegate any of their powers to one director.
- (b) A director to whom any powers have been so delegated must exercise the powers delegated in accordance with any directions of the directors.

6.8 Delegation to to any other person

Without limiting Article 6.6 or Article 6.7

- (a) The directors may delegate any of their powers to any person.
- (b) A person to whom any powers have been so delegated must exercise the powers delegated in accordance with any directions of the directors.

7 Secretary

7.1 Appointment and Removal of Secretary

There shall be at least one secretary of the company who shall be appointed by the directors for such term and upon such conditions as they think fit. The directors shall have power to suspend or remove a secretary.

7.2 Powers and Duties of Secretary

- (a) The secretary shall keep minutes of the proceedings at all directors' meetings of the company and as otherwise required by the Corporations Act.
- (b) The directors may vest in a secretary such other powers, duties and authorities as they may from time to time determine and the secretary shall exercise all such powers, duties and authorities subject at all times to the control of the directors.

8 General Meetings

If the company is required to pass a resolution at a general meeting of shareholders, the resolution may be passed in any manner permitted under the Corporations Act. If a general meeting of shareholders is to be held, the calling of, holding of, and voting at the general meeting shall be regulated in accordance with Part 2G.2 of the Corporations Act and the replaceable rules in that Part shall apply and be taken to be repeated in this constitution.

9 Common Seal

9.1 Common Seal and Custody of Common Seal

- (a) The company may have a common seal.
- (b) The directors must provide for the safe custody of the common seal (if any).

9.2 Use of Common Seal

Without limiting the ways in which the company can execute documents in accordance with the Corporations Act, if the company has a common seal the directors may determine whatever procedures they consider appropriate for the use of the seal and, until the directors determine otherwise, the common seal shall be used only by the authority of the directors or of a committee of the directors authorised by the directors to authorise the use of the common seal. The affixing of the common seal of the company shall be attested by two people being:

- (a) two directors;
- (b) a director and a secretary;
- (c) a director and a person authorised by the board for the purpose (an authorised person);
- (d) a secretary and an authorised person; or
- (e) two authorised persons,

and such attestation shall be sufficient evidence of the authority to affix the common seal.

10 Dividends and Reserves

10.1 Dividends

- (a) The directors may, in accordance with the Corporations Act, determine that a dividend is payable and may fix the amount, the time for payment and the method of payment.
- (b) The directors may pay such interim dividends as in their judgment, and subject to the Corporations Act, the position of the company justifies.

10.2 Reserves and Profits Carried Forward

- (a) The directors may, before resolving to pay any dividend, set aside out of the profits of the company such sums as they think proper as reserves, to be applied, at the discretion of the directors, for any purpose for which the profits of the company may be properly applied.
- (b) Pending any such application, the reserves may, at the discretion of the directors, be used in the business of the company or be invested in such investments as the directors think fit.
- (c) The directors may carry forward so much of the profits remaining as they consider ought not to be distributed as dividends without transferring those profits to a reserve.

10.3 Distribution of Specific Assets

- (a) Subject to the approval of the Chief Executive Officer or Chief Financial Officer, the directors may resolve that the payment of a dividend be satisfied wholly or partly by the distribution of specific assets, including paid up shares in, or debentures of, the company or any other corporation.
- (b) Where a difficulty arises in regard to such a distribution, the directors may settle the matter as they consider expedient and fix the value for distribution of the specific assets or any part of those assets and may determine that cash payments will be made to any shareholders on the basis of the value so fixed in order to adjust the rights of all parties, and may vest any such specific assets in trustees as the directors consider expedient.

10.4 Capitalisation of Profits

- (a) Subject to the approval of the Chief Executive Officer or Chief Financial Officer, the directors may resolve to capitalise any sum, being the whole or a part of the amount for the time being standing to the credit of any reserve account or the profit and loss account or otherwise available for distribution to shareholders, and to apply the sum in any of the ways mentioned in paragraph (b) of this article for the benefit of shareholders in the proportions to which those shareholders would have been entitled in a distribution of the sum by way of dividend.
- (b) The ways in which a sum may be applied for the benefit of shareholders are as follows:
 - (i) in paying up any amounts unpaid on shares or other securities held by shareholders;
 - (ii) in paying up in full unissued shares, debentures or other securities to be issued to shareholders as fully paid; or
 - (iii) partly as mentioned in paragraph (i) and partly as mentioned in paragraph (ii).

11 Accounts and Audit

11.1 Company to Keep Accounts

The directors must cause the company to keep accounts of the business of the company in accordance with the requirements of the Corporations Act.

11.2 Company to Audit Accounts

The directors must cause the accounts of the company to be audited if required by, and if so, in accordance with the requirements of, the Corporations Act.

12 Notices

- (a) Without limiting any other way in which notice may be given to a shareholder under the Corporations Act, a notice may be given to any shareholder or to any other person entitled to notice under this constitution:
 - (i) personally; or
 - (ii) by sending it by post to the shareholder's registered address or the address supplied by that other person; or

- (iii) by sending it to a facsimile number or electronic address nominated by the shareholder or that other person.
 - (b) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying, and posting a letter containing the notice, and to have been effected, in the case of a notice of a meeting, on the day after the date of its posting and, in any other case, at the time at which the letter would be delivered in the ordinary course of post.
 - (c) Where a notice is sent by facsimile or electronic transmission, service of the notice is deemed to be effected by properly addressing and transmitting the facsimile or electronic transmission and the notice is deemed to have been served in the case of a facsimile or electronic transmission on the day following its despatch.
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13 Indemnity and Insurance

13.1 Persons to Whom Articles 13.2 and 13.4 Apply

Articles 13.2 and 13.4 apply to each person who is or has been a director, secretary or senior manager of the company (each an "Officer" for the purposes of this article).

13.2 Indemnity

The company must indemnify each Officer on a full indemnity basis and to the full extent permitted by law against all losses, liabilities, costs, charges and expenses ("Liabilities") incurred by the Officer as an officer of the company.

13.3 Extent of Indemnity

The indemnity in article 13.2:

- (a) is enforceable without the Officer having to first incur any expense or make any payment;
- (b) is a continuing obligation and is enforceable by the Officer even though the Officer may have ceased to be an officer of the company; and
- (c) applies to Liabilities incurred by the Officer as an officer of the company both before and after the adoption of this constitution.

13.4 Insurance

The company may, to the extent permitted by law:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance,

for each Officer against any Liability incurred by the Officer as an officer of the company including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal and whatever their outcome.

13.5 Savings

Nothing in articles 13.2 or 13.4:

- (a) affects any other right or remedy that a person to whom those articles apply may have in respect of any liability referred to in those articles;

- (b) limits the capacity of the company to indemnify or provide or pay for insurance for any person to whom those articles do not apply; or
- (c) limits or diminishes the terms of any indemnity conferred or agreement to indemnify entered into prior to the adoption of this constitution.