

# Constitution of Gladstone Airport Corporation



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## CONSTITUTION OF *GLADSTONE AIRPORT CORPORATION*

### 1. PRELIMINARY

#### 1.1 Definitions

The following definitions apply in this document.

**Act** means the Local Government Act 2009 (including those repealed provisions pertaining to corporate entities continued under s. 297 of the Act).

**Affiliate** means:

- (a) any entity (such as body corporate, partnership or trust) which a Director or Relative controls (within the meaning of section 50AA of the Corporations Act 2001 (Cth)); or
- (b) a Relative of the Director or the Director's spouse, the Director's defacto spouse or a body corporate in which the Director, or any Relative own or hold in the aggregate more than 20% of the voting shares (as defined in the Act).

**Auditor-General** under the *Financial Accountability Act 2009* (Qld) means the Queensland Auditor-General, under the *Auditor-General Act 2009* (Qld).

**Board** means the Directors acting collectively under this document.

**Company** means the corporation named at the beginning of this document whatever its name is for the time being.

**Corporate Plan** has the meaning given by the LGBEBA.

**Director** means a person who is, for the time being, a director of the Company including, where appropriate, an alternate.

**Dividend** includes bonus.

**General Meeting** means a meeting of the Company.

**Indirect Interest** includes an interest of a Relative of a Director or an Affiliate of a Director or Relative.

**LGBEBA** means the Local Government (Beneficial Enterprises and Business Activities) Regulation 2010.

**Ordinary resolution** means a resolution passed at a meeting of shareholders by a majority of the votes cast by shareholders entitled to vote on the resolution.

**Relative** has the meaning given by section 9 of the Corporations Act 2001 (Cth) and also means a defacto spouse.

**SBFA** means the Statutory Bodies Financial Arrangements Act 1982.

**Secretary** means, during the term of that appointment, a person appointed as a secretary of the Company in accordance with this document.

**Shareholder** in relation to the Company has the meaning given to that term in the LGBEBA and, if the context permits, means a "member" as that term is defined in the Corporations Act 2001 (Cth).

**Statement of Corporate Intent** has the meaning given by the LGBEBA.

**Voting Shareholder** in relation to a general meeting, or meeting of a class of shareholders, means a shareholder who has the right to be present and to vote on at least 1 item of business to be considered at the meeting.

## 1.2 Interpretation of this document

Headings and marginal notes are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
  - (i) legislation (including subordinate legislation) is to that legislation as amended, modified in relation to the Company, re-enacted or replaced, and includes any subordinate legislation issued under it;
  - (ii) a document or agreement, or a provision of a document or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
  - (iii) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
  - (iv) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.
- (c) A word which suggests 1 gender includes the other genders.
- (d) If a word is defined, another part of speech has a corresponding meaning.
- (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (f) The word **agreement** includes an undertaking or other binding arrangement or understanding, whether or not in writing.
- (g) A power to do something includes a power, exercisable in the like circumstances, to revoke or undo it.
- (h) A reference to a power is also a reference to authority or discretion.
- (i) A reference to something being **written or in writing** includes that thing being represented or reproduced in any mode in a visible form.
- (j) A word (other than a word defined in rule 1.1) which is defined by the LGBEBA has the same meaning in this document where it relates to the same matters as the matters for which it is defined in the LGBEBA.
- (k) A reference to a Chapter, Part, Division or section is a reference to a Chapter, Part, Division or section of the LGBEBA.

## 1.3 LGBEBA prevails

- (a) This document is to read subject to the LGBEBA.
- (b) To the extent of any inconsistency between the LGBEBA and this document, the LGBEBA will prevail.

## 2. **OBJECTS AND BUSINESS ACTIVITIES OF COMPANY**

### 2.1 **Objects and Business Activities**

The Company's objects are:

- (a) to operate and develop Gladstone Airport to enable safe and secure travel connections that facilitate the economic and social growth of the region;
- (b) to provide airport facilities for aircraft operators and the travelling public;
- (c) to develop and manage business opportunities including business partnerships to optimise the benefits to the Company; and
- (d) carrying out any activity that is incidental to the objects and activities set out in this rule 2.1.

The Company must not undertake any activities which do not come within the scope of the objects contained in this rule.

### 2.2 **Interpretation**

The Company's objects are to be interpreted independently and not as limiting any other object.

### 2.3 **Approval for Outside Scope Activities to be obtained from Shareholder**

The Company must not undertake any activities which do not come within the scope of the objects contained in rule 2.1, unless the Shareholder has consented to the activity or service.

## 3. **DIRECTORS**

### 3.1 **Number of Directors**

In accordance with the LBBEBA, the number of Directors must be not less than five. Each Director is to be a natural person.

### 3.2 **Appointment of Directors**

- (a) A Director is not required to hold any Shares.
- (b) In accordance with the LGBEBA, the Shareholder may appoint a Director and shall determine the appointment conditions of the Directors.

### 3.3 **Cessation of Director's appointment**

A person automatically ceases to be a Director if the term of the Director's appointment expires, or if the person:

- (a) is not permitted by the LGBEBA to be a Director;
- (b) becomes disqualified from managing corporations under Part 2D.6 of the Corporations Act 2001 (Cth);;
- (c) for a person who was a councillor or employee of a local government when the person was appointed as a director - the person stops being a councillor or employee;
- (d) resigns by notice in writing to the Company; or

(e) is removed from office under rule 3.4.

### 3.4 **Removal from office**

(a) The Shareholder has the sole right to remove a Director appointed by it by giving a written notice of removal to the Company. A Director named in a notice of removal ceases to be a Director on receipt of the notice of removal by the Company.

## 4. **POWERS OF THE BOARD**

### 4.1 **Powers generally**

Except as otherwise required by the LGBEBA and any other applicable law or this document, the Board:

- (a) has power to manage the business of the Company and the attainment and performance of the Company's objects; and
- (b) may exercise every right, power or capacity of the Company.

### 4.2 **Specific Powers**

Without limiting the generality of Rule 4.1, subject to the LGBEBA and any other approvals required under applicable laws or instruments, the Company may

- (a) form, or take part in forming, an association; or
- (b) become a member of an association; or
- (c) takes part in the management of an association; or
- (d) acquire or disposes of shares, debentures or securities of an association; or
- (e) borrow money.<sup>1</sup>

For the purposes of this Rule 4.2, an **association** means a partnership, a corporation limited by shares but not listed on a stock exchange, a corporation limited by guarantee but not listed on a stock exchange or another association of persons that is not a corporation.

### 4.3 **Statement of Corporate Intent**

Rule 4.1 is subject to any prior undertaking the Company has given to the Shareholder in its Statement of Corporate Intent.

### 4.4 **Exercise of powers**

A power of the Board can be exercised only by resolution passed at a meeting of the Board or otherwise in accordance with rule 10.

### 4.5 **Responsibilities under the GOC Act**

The roles, responsibilities and duties of the Directors include those required of them under the LGBEBA.

## 5. **DELEGATION OF BOARD POWERS**

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<sup>1</sup> Consideration must be given to whether the activity involves a financial arrangement for which the Company requires Treasurer approval under the SBFA to undertake.



5.1 **Power to delegate**

The Board may delegate any of its powers as permitted by s. 60 of LGBEBA.

5.2 **Power to revoke delegation**

The Board may revoke a delegation previously made whether or not the delegation is expressed to be for a specified period.

5.3 **Terms of delegation**

A delegation of powers under rule 5.1 may be made:

- (a) for a specified period or without specifying a period; and
- (b) on the terms (including power to further delegate) and subject to any restrictions the Board decides.

A document of delegation may contain the provisions for the protection and convenience of those who deal with the delegate that the Board thinks appropriate.

5.4 **Proceedings of committees**

Subject to the terms on which a power of the Board is delegated to a committee, the meetings and proceedings of committees are, to the greatest extent practical, governed by the rules of this document which regulate the meetings and proceedings of the Board.

6. **DIRECTORS' DUTIES AND INTERESTS**

6.1 **Degree of care and diligence required**

In determining, for the purposes of the LGBEBA the degree of care and diligence that a reasonable person in a like position in a Company would exercise in the circumstances of the Company, regard must be had to:

- (a) the application of the LGBEBA to the Company; and
- (b) relevant matters required or permitted to be done under the LGBEBA in relation to the Company.

6.2 **Management of Company**

- (a) Subject to the LGBEBA and this Constitution, the Directors are responsible for management of the business of the Company and the attainment and performance of the objects contained in this Constitution and may exercise all the powers of the Company which are not, by the LGBEBA or this Constitution, required to be exercised by the Shareholder.
- (b) The roles, responsibilities and duties of the Directors include those required of them under the LGBEBA.

6.3 **Director can hold other offices etc.**

A Director may hold any office or place of profit or employment other than as restricted by Chapter 3, Part 6, Subdivision 7 "Dual Service" of the LGBEBA.

6.4 **Director interested in a matter**

- (a) A Director has a duty to disclose a direct or indirect interest (and the nature of that interest) in a matter that is being considered, or about to be considered, by the Board.
- (b) A Director who has a material personal interest in a matter that is being considered at a Board meeting must not be present while the matter is being considered at the meeting, must not vote on the matter or a related resolution and must not otherwise take part in any decision of the Board in relation to the matter or a related resolution..
- (c) Subrule 6.4(b) does not apply to a matter if the Board has, at any time, passed a resolution in respect of the director's interest in accordance with the requirements of the Act.
- (d) The Company cannot avoid the transaction merely because of the existence of the interest.

#### 6.5 **Register of Interests**

The Company must record every declaration of interest in the minutes of the meeting at which it is made. The Company must maintain a register of interests disclosed.

#### 6.6 **Agreements with third parties**

The Company cannot avoid an agreement with a third party merely because a Director:

- (a) fails to make a disclosure of an interest; or
- (b) is/was present at, or counted in the quorum for, a Board meeting that considers or votes on that agreement.

#### 6.7 **Obligation of secrecy**

Every Director and Secretary must keep the transactions and affairs of the Company and the state of its financial reports confidential unless required to disclose them:

- (a) in the course of duties as an officer of the Company;
- (b) by the Board or the Company in general meeting; or
- (c) by law.

The Company may require a Director, Secretary, trustee, committee member or other person engaged by it to sign a confidentiality undertaking consistent with this rule. A Director or Secretary must do so if required by the Company.

### 7. **DIRECTORS' REMUNERATION**

#### 7.1 **Remuneration of Directors**

The Directors will not be entitled to be paid by way of fees or other remuneration for their services unless approved by the Shareholder. No change to the Directors' remuneration arrangements will have effect until approved in writing by the Shareholder.

#### 7.2 **Additional remuneration for extra services**

If a Director, at the request of the Board and for the purposes of the Company, performs extra services or makes special exertions (including going or living away from the Director's usual residential address), the Company may pay that Director a fixed sum set by the Board, with the prior approval of the Shareholder, for doing so.

### 7.3 **Expenses of Directors**

Subject to the terms of the Director's appointment, the Company must pay a Director (in addition to any remuneration) all reasonable expenses (including travelling and accommodation expenses) incurred by the Director:

- (a) in attending meetings of the Company, the Board, or a committee of the Board;
- (b) on the business of the Company; or
- (c) in carrying out duties as a Director.

## 8. **OFFICERS' INDEMNITY AND INSURANCE**

### 8.1 **Indemnity**

Subject to and so far as permitted by the SBFA, the Act, the LGBEBA, and any other applicable law:

- (a) the Company must, to the extent the person is not otherwise indemnified, indemnify every officer of the Company against a Liability incurred as an officer to a person (other than the Company or a related body corporate) including a Liability incurred as a result of appointment or nomination by the Company as a trustee or as an officer of another corporation, unless the Liability arises out of conduct involving a lack of good faith and or involves a pecuniary penalty; and
- (b) the Company may make a payment (whether by way of advance, loan or otherwise) in respect of legal costs incurred by an officer or employee in defending an action for a Liability incurred as such an officer or employee or in resisting or responding to actions taken by a government agency or a liquidator.

In this rule, **Liability** means a liability of any kind (whether actual or contingent and whether fixed or unascertained) and includes costs, damages and expenses, including costs and expenses incurred in connection with any investigation or inquiry by a government agency or a liquidator.

### 8.2 **Insurance**

Subject to the Act, LGBEBA and any other applicable law, 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 of the Company against any liability incurred by the person as an officer of the Company except a liability (other than one for legal costs) arising out of:

- (a) conduct involving a wilful breach of duty; or
- (b) conduct involving improper use of position or improper use of information.

### 8.3 **Deeds**

Subject to the SBFA, the Act, the LGBEBA and any other applicable law Act, the Company may, without limiting a person's rights under this rule 8, enter into an agreement with a person who is or has been an officer of the Company, to give effect to the rights of the person under this rule 8 on any terms and conditions that the Board thinks fit.

## 9. **CHIEF EXECUTIVE OFFICER**

### 9.1 **Appointment**

The chief executive officer must be appointed by the Board.

## 9.2 **Terms and conditions**

The Directors may determine the terms and conditions of appointment of the chief executive officer, including remuneration.

## 10. **BOARD MEETINGS**

### 10.1 **Convening Board meetings**

The chairperson may call a meeting, at any time, by giving the other directors at least 7 days' notice of the meeting and must call a meeting if a majority of the directors ask the chairperson to do so.

### 10.2 **Notice of Board meeting**

The convenor of each Board meeting:

- (a) must give reasonable notice of the meeting (and, if it is adjourned, of its resumption) individually to each Director who is in Australia; and
- (b) may give that notice orally (including by telephone) or in writing;

but failure to give notice to, or non-receipt of notice by, a Director does not result in a Board meeting being invalid.

### 10.3 **Use of technology**

A Board meeting may be held using any means of audio or audio-visual communication by which each Director participating can hear and be heard by each other Director participating. A Board meeting held solely or partly by technology is treated as held at the place at which the greatest number of the Directors present at the meeting is located or, if an equal number of Directors is located in each of 2 or more places, at the place where the chairman of the meeting is located.

### 10.4 **Appointment of chairperson of Directors**

- (a) The Shareholder must elect a chairperson and may determine the period during which the chairperson holds office.
- (b) The Shareholder may appoint a Director to be a deputy chairperson of the board.
- (c) The chairperson of Directors shall preside at meetings of the Directors, but if at the time of any meeting a chairman has not been elected or is not present within 15 minutes of the time appointed for holding the meeting, the deputy chairperson will act for the chairperson.
- (d) If both the chairperson and deputy chairperson are not present within 15 minutes of the time appointed for holding the meeting, a director who is chosen by the other directors shall preside over the meeting,

### 10.5 **Quorum**

Unless the Board decides otherwise, the quorum for a Board meeting is four (4) Directors present who are entitled to vote on each question before the meeting.

### 10.6 **Majority decisions**

A resolution of the Board must be passed by a majority of the votes cast by Directors who are present and voting at the meeting. If the voting is tied, the director presiding at the meeting has a casting vote.

**10.7 Procedural rules**

The Board may adjourn and, subject to this document and the LGBEBA, otherwise regulate its meetings as it decides.

**10.8 Written resolution**

If a majority of the Directors entitled to receive notice of a Board meeting and to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document, a Board resolution in those terms is passed at the time when the Director who casts the majority vote signs the document.

**10.9 Additional provisions concerning written resolutions**

For the purpose of rule 9.8:

- (a) 2 or more separate documents in identical terms, each of which is signed by 1 or more Directors, are treated as 1 document; and
- (b) a facsimile or electronic message containing the text of the document expressed to have been signed by a Director that is sent to the Company is a document signed by that Director at the time of its receipt by the Company.

**10.10 Valid proceedings**

Each resolution passed or thing done by, or with the participation of, a person acting as a Director or member of a committee is valid even if it is later discovered that:

- (a) there was a defect in the appointment of the person; or
- (b) the person was disqualified from continuing in office, voting on the resolution or doing the thing.

**11. MEETINGS OF SHAREHOLDERS**

**11.1 Calling meetings of Shareholders**

A meeting of Shareholders may be convened at any time by the Board or a Director.

**11.2 Notice of meeting**

Subject to rule 10.3, at least 21 days' written notice of a meeting of Shareholders must be given individually to:

- (a) each Shareholder (whether or not the shareholder is entitled to vote at the meeting);
- (b) each Director; and
- (c) to the auditor.

**11.3 Short notice**

If the Company has elected to convene a meeting of Shareholders as the annual general meeting,

- (a) if all the Shareholders entitled to attend and vote agree, or

- (b) otherwise, if Shareholders who together have power to cast at least 95% of the votes that may be cast at the meeting agree, a resolution may be proposed and passed at a meeting of which less than 21 days' notice has been given.

## 12. **PROCEEDINGS AT MEETINGS OF SHAREHOLDERS**

### 12.1 **Resolutions without a meeting**

While the Company has only one Shareholder, the Company may pass a resolution without a general meeting being called or held if the resolution set out in a document is signed and dated by the Shareholder.

### 12.2 **Signature of resolutions**

The Company may treat a document on which a facsimile or electronic signature appears or which is otherwise acknowledged by a Shareholder in a manner satisfactory to the Board as being signed by that Shareholder.

### 12.3 **When particular resolutions take effect**

In accordance with section 116 of the LGBEBA, a resolution by the Shareholder under Chapter 3 Part 6 of the LGBEBA, takes effect:

- (a) When notice of the making of the resolution is gazetted; or
- (b) A later day stated in the notice and resolution.

### 12.4 **Notification of Shareholder Decisions**

Subject to the Act, the Shareholder will:

- (a) give the Company reasonable notice and details of any resolutions proposed to be made by the Shareholder which may, or may in the future, materially affect the Company;
- (b) allow the Company to make submissions in relation to the proposed resolution;
- (c) consider any submissions made by the Company in good faith; and
- (d) promptly advise the Company of the outcome of the Shareholder's decision on the resolution.

## 13. **SECRETARY**

### 13.1 **Appointment of Secretary**

The Board may appoint at least 1 individual to be a Secretary either for a specified term or without specifying a term.

### 13.2 **Terms and conditions of office**

A Secretary holds office on the terms (including as to remuneration) that the Board decides. The Board may vary any decision previously made by it in respect of a Secretary.

### 13.3 **Cessation of Secretary's appointment**

A person automatically ceases to be a Secretary if the person:

- (a) becomes disqualified from managing corporations under Part 2D.6 of the Corporations Act 2001 (Cth);
- (b) becomes of unsound mind or physically or mentally incapable of performing the functions of that office;
- (c) resigns by notice in writing to the Company; or
- (d) is removed from office under rule 12.4.

#### 13.4 **Removal from office**

The Board may remove a Secretary from that office whether or not the appointment expressed to be for a specified term.

### 14. **MINUTES**

#### 14.1 **Minutes must be kept**

The Board must cause minutes of:

- (a) proceedings and resolutions of meetings of the Company's Shareholders;
- (b) the names of Directors present at each Board meeting or committee meeting;
- (c) proceedings and resolutions of Board meetings;
- (d) resolutions passed by Directors without a meeting; and
- (e) disclosures and notices of Directors' interests.

#### 14.2 **Minutes as evidence**

A minute recorded and signed is evidence of the proceeding, resolution or declaration to which it relates unless the contrary is proved.

#### 14.3 **Inspection of minute books**

The Company must allow its Shareholders to inspect, and provide copies of, the minute books for the meetings of Shareholders.

### 15. **COMPANY SEALS**

#### 15.1 **Common seal**

The Board:

- (a) may decide whether or not the Company has a common seal; and
- (b) is responsible for the safe custody of that seal (if any).

#### 15.2 **Use of seals**

The common seal may only be used with the authority of the Board. The Board must not authorise the use of a seal that does not comply with section 105 of the LGBEBA.

#### 15.3 **Fixing seals to documents**

The fixing of the common seal to a document must be witnessed:

- (a) by at least 2 Directors;
- (b) by 1 Director and the chief executive officer; or
- (c) 1 Director and one or more persons who are authorised by the Board; or
- (d) The chief executive officer and 1 or more persons who are authorised by the Board.

## 16. **FINANCIAL REPORTS AND AUDIT**

### 16.1 **Company must keep financial records**

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

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

### 16.2 **Information**

The Board must provide information (including report and information of the operations, financial performance and financial position of the Company and its subsidiaries) in accordance with the LGBEBA.

### 16.3 **Information as a local government owned corporation**

While the Company is a local government owned corporation, the Company must provide to the Shareholder, on the Shareholder's request, all information that may be required by the Shareholder in order for the Shareholder to comply with its reporting obligations under the Act or another Act..

### 16.4 **Auditor**

While the Company is a local government owned corporation, the Board must appoint the Auditor-General as the Auditor of the Company.

## 17. **CAPITAL STRUCTURE**

While the Company is a local government owned corporation, it must:

- (a) endeavour to maintain a capital structure suitable for an investment-grade credit rating (BBB or greater); and
- (b) ensure its capital structure and associated policies are consistent with the requirements set out in its Statement of Corporate Intent.

## 18. **SHARES AND CERTIFICATES AND REGISTERS**

### 18.1 **Power to issue shares**

The Shareholder may, by resolution issue shares.

### 18.2 **Issue of share certificate**

The Company may issue a certificate of title to shares and deliver it to the holder of those shares.



### 18.3 **Lost and worn out certificates**

If a certificate:

- (a) is lost or destroyed and the owner of the relevant securities applies to the Company, or
- (b) is defaced or worn out and is produced to the Company, the Company may, issue a new certificate in its place.

### 18.4 **Register of Members**

- (a) The Company will maintain a register of Shareholders;
- (b) The register of Shareholders will contain:
  - (i) the name and address of each Shareholder;
  - (ii) the date of which the entry of the Shareholder's name in the register is made;
  - (iii) the class and number of shares held by each Shareholder;
  - (iv) the amount paid on the shares; and
  - (v) whether or not the shares are fully paid.
- (c) The Company may maintain the register of Shareholders in electronic form; and
- (d) In the absence of evidence to the contrary, a register of Shareholders kept in accordance with this Rule 17 is proof of the matters shown in the register.

## 19. **DIVIDENDS**

### 19.1 **Dividends able to be paid**

The Board may, subject to compliance with the requirements of the LGBEBA and any other applicable law, determine or declare that a dividend or interim dividend is payable and fix:

- (a) the amount; and
- (b) the time for payment; and
- (c) the method of payment.

The methods of payment may include the payment of cash.

### 19.2 **No interest on dividends**

Interest is not payable on a dividend.

### 19.3 **Time when the debt arises**

Subject to the LGBEBA the Company incurs a debt for payment of a dividend or interim dividend only when the time fixed for the payment arrives.

## 20. **TRANSFER OF SHARES**

### 20.1 **Form and execution of transfer**

- (a) The Shareholder may only transfer shares as permitted by section 79 of the LGBEBA.
- (b) A transfer of shares must be in writing, a usual form or in another form approved by the Directors.
- (c) A transfer:
  - (i) (must be executed by or on behalf of the transferor or by any person who is authorised or permitted by the LGBEBA to execute a transfer for or on behalf of the transferor; and
  - (ii) need not be executed by or on behalf of the transferee.

## 20.2 **Effect of transfers**

A transferor remains the holder of the shares transferred until the transfer is registered and the name of the transferee is entered in the share register in respect of the shares.

## 20.3 **Registration procedure**

- (a) (Despite rule 18.3(b) the Directors must register a transfer of shares (either accompanied by the certificate for the shares to which it relates or not) if required or directed to do so under the LGBEBA.
- (b) A transfer of shares must be left for registration at the registered office of the Company, or at another place determined by the Directors, accompanied by:
  - (i) (the certificate for the shares to which it relates; and/or
  - (ii) evidence reasonably required by the Directors to show the right of the transferor to make the transfer.
- (c) The Directors must register the transferee as shareholder unless they have the right under this Constitution, the LGBEBA to refuse to register the transfer.

## 20.4 **Notification of refusal to register**

If in exercise of their rights under this Constitution the Directors refuse to register a transfer of a share, they must give written notice of the refusal to the person who lodged the transfer within 2 months after the date on which the transfer was lodged with the Company.

## 21. **ALTERATION OF SHARE CAPITAL**

### 21.1 **Alteration by resolution**

The Shareholder may by resolution alter its share capital in anyone or more of the ways provided for by the LGBEBA including:

- (a) increase its share capital by the creation of new shares of the amount specified in the resolution;
- (b) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;
- (c) subdivide its shares or any of them into shares of smaller amount so that in the subdivision the proportion between the amount paid and the amount (if any) unpaid on each subdivided share is the same as it was in the case of the share from which the subdivided share is derived; or

- (d) cancel shares that, at the date of the passing of the resolution to that effect, have not been taken or agreed to be taken by any person or that have been forfeited and by reducing the amount of its share capital by the amount of the shares so cancelled.

## 22. NOTICES

### 22.1 Notices by Company

A notice is properly given by the Company to a person if it is:

- (a) in writing signed on behalf of the Company (by original or printed signature);
- (b) addressed to the person to whom it is to be given; and
- (c) either:
  - (i) delivered personally;
  - (ii) sent by prepaid mail (by airmail, if the addressee is overseas) to the person's address;
  - (iii) sent by fax to the fax number (if any) nominated by that person; or
  - (iv) sent by electronic message to the electronic address (if any) nominated by that person.

### 22.2 When notice is given

A notice to a person by the Company is regarded as given and received:

- (a) if it is delivered personally:
  - (i) by 5 pm (local time in the place of receipt) on a business day - on that day; or
  - (ii) (ii) after 5 pm (local time in the place of receipt) on a business day, or on a day that is not a business day - on the next business day;
- (b) if it is sent by fax or electronic message:
  - (i) by 5 pm (local time in the place from which it is sent or given) on a business day - on that day; or
  - (ii) (ii) after 5 pm (local time in the place from which it is sent or given) on a business day, or on a day that is not a business day - on the next business day; and
- (c) if it is sent by mail:
  - (i) within Australia - 1 business day after posting; or
  - (ii) to a place outside Australia - 3 business days after posting.

A certificate in writing signed by a Director or Secretary stating that a notice was sent is conclusive evidence of service.

22.3 **Business days**

For the purposes of rule 20.2, a business day is a day that is not a Saturday, Sunday or public holiday in the place to which the notice is sent.

22.4 **Counting days**

If a specified period must pass after a notice is given before an action may be taken, neither the day on which the notice is given nor the day on which the action is to be taken may be counted in reckoning the period.

23. **AMENDMENT OF THIS DOCUMENT BY SHAREHOLDER**

Notwithstanding any contrary rules in this document the Shareholder may at any time amend this document by resolution of the Shareholder.

24. **NO LIABILITY TO THE SHAREHOLDER**

In accordance with section 108 of the LGBEBA, the Shareholder is only liable for the debts and other liabilities of the Company only if, and to the extent that, the liability is expressly and lawfully incurred as the Shareholder's agent.

25. **CORPORATE DOCUMENTS**

- (a) The Company must prepare a Statement of Corporate Intent and Corporate Plan for each financial year and obtain Shareholder approval for the Statement of Corporate Intent and Corporate Plan in accordance with s94 of the LGBEBA.
- (b) The Statement of Corporate Intent and Corporate Plan may only be amended in accordance with s95 of the LGBEBA.
- (c) A copy of the current Statement of Corporate Intent and Corporate Plan will be kept with this Constitution.

26. **SHAREHOLDER DIRECTIONS**

- (a) The Shareholder may give the Company a shareholder direction under Chapter 3, Part 6 Division 5 of the LGBEBA.
- (b) The Shareholder must:
  - (i) before giving a direction, consult with the Company in good faith in a timely, professional and collaborative manner;
  - (ii) issue the direction in writing; and
  - (iii) make the direction available for public inspection.
- (c) The Board must ensure that the Company complies with the direction.
- (d) The Shareholder acknowledges that the obligation to comply with a direction is a community service obligation.
- (e) In determining the degree of care and diligence that a reasonable person in a like position in a Company would exercise in the circumstances of the Company, regard must be had to:
  - (i) the application of the Act and LGBEBA to the Company; and

- (ii) relevant matters required or permitted to be done under the Act or LGBEBA in relation to the Company including for example any relevant directions, notifications or approvals given to the Company by the Shareholder.

(f) If:

- (i) the Board is given a direction or notification by the Shareholder under the LGBEBA; and
- (ii) the Board suspects that the Company or a subsidiary of the Company, will or may become insolvent; and
- (iii) in the Board's opinion, the cause or a substantial cause of the suspected insolvency would be compliance with the direction or notification;

the board must give written notice to the Shareholder of the suspicion and its reasons for the opinion.

(g) If the Shareholder is satisfied that the Board's suspicion is well-founded, the Shareholder must immediately:

- (i) if they are also satisfied that the Board's opinion is justified—revoke the direction or notification; and
- (ii) in any case, give the Board the written directions that the Shareholder consider necessary or desirable, including any directions necessary or desirable to ensure that the Company or subsidiary does not incur further debts or that the Company or subsidiary will be able to pay all its debts as and when they become due.

## 27. **REPORTS TO SHAREHOLDER**

The Company must provide the Shareholder with all information required under Chapter 3, Part 6 Division 6 Subdivision 2 of the LGBEBA.

## 28. **SYSTEMS AND CORPORATE GOVERNANCE**

### 28.1 **Systems**

- (a) The Company must adopt, and operate its business in accordance with, accounting, performance management and commercial managements systems that conform with the following strategic direction:
  - (i) for accounting systems, the system is in accordance with Australian Accounting Standards;
  - (ii) for performance management systems, the system applies commercially recognised performance management systems suitable to monitor and report on the Statement of Corporate Intent and Corporate Plan;
  - (iii) for commercial management systems, the system incorporates accepted, contemporary airport management practices.
- (b) The Company may amend its adopted systems at any time, subject to continued consistency with the strategic direction outlined in this subrule.

### 28.2 **Key Principles of Corporatisation**

The Company will apply the key principles of corporatisation (as described in section 51 of the LGBEBA) through compliance with its Corporate Plan and Statement of Corporate Intent.