

Constitution of Central Coast Water Corporation

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Central Coast Water Corporation

1. Preliminary

1.1 Definitions and Interpretation

- (a) Article 22.1 defines particular words and phrases used in this Constitution.
- (b) Article 22.2 contains general interpretation provisions for this Constitution.

1.2 Power to alter Constitution

- (a) Subject to article 1.2(b), the Voting Shareholders in general meeting or pursuant to a written resolution under article 6.11 may alter or add to the provisions of this Constitution in such manner as they think fit.
- (b) The Constitution may not be altered or added to in a way that is inconsistent with the provisions in Schedule 1 to the CCWC Act unless and until resolutions approving the alteration or addition have been passed by each of the Constituent Councils.

1.3 Central Coast Water Corporation Act

The provisions of the CCWC Act prevail over any inconsistent provisions of this Constitution.

1.4 Sections 24 and 25 of CCWC Act

The Corporation is expressly prohibited from exercising any power of the Corporation in contravention of any requirement of or under section 24 or 25 of the CCWC Act.

1.5 Protections for transferred staff

The Corporation acknowledges its obligations under and will comply with the provisions of the CCWC Act regarding any staff transferred from the Councils to the Corporation.

2. Name of the Corporation

The name of the Corporation is Central Coast Water Corporation.

3. Principal objectives

- (a) The principal objectives of the Corporation are as specified in section 5 of the CCWC Act.
- (b) Each of the principal objectives of the Corporation are of equal importance.

4. Share Capital

4.1 Share capital

- (a) The initial share capital of the Corporation is two shares, to be held as to one share by Gosford City Council and as to one share by Wyong Shire Council.
- (b) Subject to this article 4.1 and article 4.2, the directors may with the prior approval of the Voting Shareholders given in general meeting or pursuant to a written resolution under article 6.11 issue or allot additional shares to the Voting

Shareholders, for such price, on such conditions, at such times and with such preferred, deferred or other special rights or special restrictions and at such premium or discount (if any) as the Voting Shareholders may approve.

- (c) A Voting Shareholder is not obliged to acquire any further shares the Corporation offers to issue or allot unless that Voting Shareholder has approved the issue or allotment pursuant to article 4.1(b).
- (d) The directors must not issue or allot shares if as a result the Voting Shareholders would hold an unequal number of shares or enjoy unequal voting or other rights.

4.2 Shareholders

- (a) Only the Constituent Councils may hold shares and be entered in the register of members as a member of the Corporation.
- (b) The Corporation must have two Voting Shareholders being the Constituent Councils, and no more at any time.
- (c) The Voting Shareholders will at all times hold an equal number of shares in the Corporation and be in a position to cast an equal number of votes.
- (d) Each Voting Shareholder will at all times be entitled to rights equal to those to which the other Voting Shareholder is entitled.

4.3 Share Certificates

- (a) Share certificates in respect of the shares will be issued under the Seal in such manner as the directors may determine.
- (b) Unless the conditions of allotment of the shares provide otherwise, each Voting Shareholder will be entitled to one certificate, without payment, in respect of the shares registered in the Voting Shareholder's name, or to several certificates in reasonable denominations.
- (c) If any share certificate, letter of allotment, transfer, receipt or any other document of title to shares is damaged, defaced, lost or destroyed, then on production of it to the directors or, where it has been lost or destroyed, upon making a request for a replacement, the directors may order it to be cancelled and may issue a duplicate in its place.

4.4 Alteration of capital

Subject to articles 4.1 and 4.2, the Corporation may, with the prior approval of the Voting Shareholders given in general meeting or pursuant to a written resolution under article 6.11, alter the capital of the Corporation in any way, including without limitation, any one or more of the following:

- (a) by increasing its share capital by the creation of new shares;
- (b) by consolidating and dividing all or any of its share capital into shares of a larger amount than its existing shares; and
- (c) by subdividing all or any of its shares into shares of a smaller amount.

5. No transfer of shares

A Voting Shareholder may not sell or otherwise Dispose of its shares in the Corporation and the directors must not resolve to approve or register any such transfer.

6. General Meetings

6.1 Convening of AGM and general meetings

- (a) The directors must convene an annual general meeting (**AGM**) to be held at least once each calendar year and within 5 months after the end of the Financial Year. The directors must lay before the AGM the audited financial statements for the Corporation (including the auditor's report on those statements) for the last Financial Year that ended before that meeting.
- (b) The directors may otherwise convene a general meeting whenever they think fit.
- (c) The directors must convene a general meeting on a requisition of one or both Voting Shareholders.
- (d) The directors may, whenever they think fit, postpone or cancel any general meeting except that a meeting convened as a result of a requisition under article 6.1(c) can only be postponed or cancelled by the Voting Shareholder or Voting Shareholders that questioned the meeting.

6.2 Notice of general meetings

- (a) Subject to agreement by the Voting Shareholders to a lesser period, at least 14 days' notice of a general meeting (exclusive of the day on which the notice is served or deemed to be served and exclusive of the day appointed for the meeting) must be given in the manner authorised by article 20.1 to the persons referred to in article 6.2(b).
- (b) Notice of a general meeting must be given to each person who is at the date of the notice:
 - (i) a Voting Shareholder;
 - (ii) a director; or
 - (iii) an auditor of the Corporation.
- (c) A notice of a general meeting must specify the time and place of the meeting, state the form of any resolution proposed to be passed under article 6.10 and state the general nature of the business to be transacted at the meeting. The notice must also contain a statement that:
 - (i) a Voting Shareholder entitled to attend or attend and vote is entitled to appoint a proxy or attorney; and
 - (ii) a proxy or attorney may not vote at a general meeting or adjourned meeting or on a poll unless the instruments appointing the proxy or attorney and the original or an attested copy of the power of attorney or other authority (if any) under which the instrument is signed are:
 - A. deposited at the principal place of business of the Corporation or at such other place specified for that purpose in the notice

convening the meeting before the time for holding the meeting or adjourned meeting or taking the poll (as the case may be);

- B. in the case of a meeting or any adjourned meeting, tabled at the meeting or the adjourned meeting at which the person named in the instrument proposes to vote; or
- C. in the case of a poll, produced when the poll is taken.

6.3 Quorum at general meetings

- (a) No business may be transacted at any general meeting, except the election of a chairperson and the adjournment of the meeting, unless a quorum of Voting Shareholders is present when the meeting proceeds to business.
- (b) If a quorum is present at the beginning of the general meeting, it is deemed to be present throughout the meeting unless the chairperson otherwise declares on the chairperson's own motion or at the instance of a Voting Shareholder or the attorney or proxy of a Voting Shareholder.
- (c) A quorum for a general meeting is 2 persons, each being a Voting Shareholder, or a proxy, or attorney of a Voting Shareholder entitled to vote at that meeting.
- (d) If a quorum is not present within 30 minutes after the time appointed for a general meeting:
 - (i) where the meeting was convened upon the requisition of Voting Shareholders, the meeting must be dissolved; or
 - (ii) in any other case:
 - A. the meeting stands adjourned to such day, and at such time and place, as the directors determine or, if no determination is made by the directors, to the same day in the next week at the same time and place; and
 - B. if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

6.4 Chairperson of general meetings

- (a) The chairperson of the Board shall (if present in person and willing to act) preside as chairperson at each general meeting.
- (b) If at a general meeting the chairperson of the Board is not present in person or is not willing to act as chairperson of the meeting, then a proxy or attorney of a Voting Shareholder may preside as chairperson (in rotation).

6.5 Conduct of general meetings

- (a) Any question arising at a general meeting relating to the order of business, procedure or conduct of the meeting must be referred to the chairperson of the meeting, whose decision is final.

- (b) The chairperson of a general meeting may, and must if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) Where a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of an original meeting.
- (d) Except as provided by article 6.5(c), it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

6.6 Decisions at general meetings

- (a) The chairperson must not put any matter to a vote at a general meeting unless each Voting Shareholder is present in person or by a proxy or attorney, the number of shares held by each Voting Shareholder is equal and each Voting Shareholder can cast an equal number of votes.
- (b) In the case of an equality of votes upon any proposed resolution:
 - (i) the chairperson of the meeting will not have a second or casting vote; and
 - (ii) the proposed resolution is to be taken as having been lost.
- (c) A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is demanded before or immediately after the declaration of the result of the show of hands:
 - (i) by the chairperson of the meeting; or
 - (ii) by any Voting Shareholder present.
- (d) A demand for a poll does not prevent the continuance of a general meeting for the transaction of any business other than the question on which the poll has been demanded.
- (e) Unless a poll is duly demanded, a declaration by the chairperson of a general meeting that a resolution has on a show of hands been carried or carried unanimously, or carried by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Corporation, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (f) If a poll is duly demanded at a general meeting, it will be taken in such manner and (subject to article 6.6(g)) either at once or after an interval or adjournment or otherwise as the chairperson of the meeting directs, and the result of the poll will be the resolution of the meeting at which the poll was demanded.
- (g) A poll demanded at a general meeting on the election of a chairperson of the meeting or on a question of adjournment must be taken immediately.
- (h) The demand for a poll may be withdrawn.

6.7 Voting rights

- (a) Only Voting Shareholders can vote at general meetings of the Corporation.

- (b) Subject to article 6.6(a), at a general meeting:
 - (i) on a show of hands, every Voting Shareholder present in person or by a proxy or attorney has one vote; and
 - (ii) on a poll, every Voting Shareholder present in person or by a proxy or attorney has one vote for each share held by the Voting Shareholder.
- (c) Where a person present at a general meeting represents, by proxy or attorney, a Voting Shareholder then the person must not exercise the power to vote in a way which would contravene any directions given to the person, in accordance with article 6.8(e), in any instrument appointing the person as a proxy or attorney.
- (d) An objection to the qualification of a person to vote at a general meeting:
 - (i) must be raised before or at a meeting at which the vote objected to is given or tendered; and
 - (ii) must be referred to the chairperson of the meeting, whose decision is final.
- (e) A vote not disallowed by the chairperson of a meeting under article 6.7(d) is valid for all purposes.

6.8 Representation at general meetings

- (a) Subject to this Constitution, each Voting Shareholder entitled to attend or attend and vote at a meeting of Voting Shareholders may attend or attend and vote:
 - (i) in person;
 - (ii) by proxy; or
 - (iii) by an attorney.
- (b) A proxy or attorney may be appointed for all general meetings, or for any number of general meetings or for a particular general meeting.
- (c) A proxy or attorney may only represent one Voting Shareholder.
- (d) Unless otherwise provided in the instrument, an instrument appointing a proxy or attorney will be taken to confer authority:
 - (i) to agree to a meeting being convened by shorter notice than is required by this Constitution;
 - (ii) to speak to any proposed resolution on which the proxy or attorney may vote;
 - (iii) to demand or join in demanding a poll on any resolution on which the proxy or attorney may vote;
 - (iv) even though the instrument may refer to specific resolutions and may direct the proxy or attorney how to vote on those resolutions:
 - A. to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;

- B. to vote on any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the meeting; and
 - C. to act generally at the meeting; and
- (v) even though the instrument may refer to a specific meeting to be held at a specified time or venue, where the meeting is rescheduled or adjourned to another time or changed to another venue, to attend and vote at the rescheduled or adjourned meeting or at the new venue.
- (e) An instrument appointing a proxy or attorney to represent a Voting Shareholder may direct the manner in which the proxy or attorney is to vote in respect of a particular resolution and, where an instrument so provides, the proxy or attorney is not entitled to vote on the proposed resolution except as directed in the instrument.
- (f) Subject to article 6.8(h), an instrument appointing a proxy or attorney need not be in any particular form provided it is in writing, legally valid and signed by the appointer.
- (g) Subject to article 6.8(h), a proxy or attorney may not vote at a general meeting or adjourned meeting or on a poll unless the instrument appointing the proxy or attorney, and the original or an attested copy of the power of attorney or other authority (if any) under which the instrument is signed, are:
- (i) deposited at the principal place of business of the Corporation or at such other place specified for that purpose in the notice convening the meeting before the time for holding the meeting or adjourned meeting or taking the poll (as the case may be);
 - (ii) in the case of a meeting or an adjourned meeting, tabled at the meeting or adjourned meeting at which the person named in the instrument proposes to vote; or
 - (iii) in the case of a poll, produced when the poll is taken.
- (h) The directors may waive all or any of the requirements of articles 6.8(f) and (g) and in particular may, upon the production of such other evidence as the directors require to prove the validity of the appointment of a proxy or attorney, accept:
- (i) an appointment of a proxy or attorney which is not signed or executed in the manner required by article 6.8(f); and
 - (ii) the deposit, tabling or production of a copy (including a copy sent by facsimile) of an instrument appointing a proxy or attorney or of the power of attorney or other authority under which the instrument is signed.
- (i) A vote given in accordance with the terms of an instrument appointing a proxy or attorney is valid despite the revocation of the instrument or of the authority under which the instrument was executed, if no notice in writing of the revocation has been received by the Corporation by the time and at one of the places at which the instrument appointing the proxy or attorney is required to be deposited, tabled or produced under article 6.8(g).
- (j) The appointment of a proxy or attorney is not revoked by the appointer attending and taking part in the general meeting but, if the appointer votes on any resolution,

the proxy or attorney is not entitled to vote, and must not vote, as the appointer's proxy or attorney on the resolution.

6.9 Matters to be decided at general meetings

A general meeting of the Corporation may transact any business that may properly be transacted at a general meeting under the CCWC Act, this Constitution or generally.

6.10 Matters to be determined by Voting Shareholders

The Corporation must not do, or commit to do, (either directly or through any subsidiary) any of the things listed below without the prior approval of both Voting Shareholders given in general meeting or pursuant to a written resolution under article 6.11:

- (a) **(terms of directors' appointment)**: agreeing the terms of appointment of a director (including paying or agreeing to pay any fees or other remuneration to a director where such fee or other remuneration are not in material accordance with the Approved Budget);
- (b) **(Constitution)**: amend or vary this Constitution;
- (c) **(issue of securities)**: issue further shares or other securities in the Corporation or alter the capital of the Corporation in any way;
- (d) **(borrow money)**: borrow or accept any financial accommodation where such borrowing or financial accommodation is not in material accordance with the Approved Budget;
- (e) **(approve or vary the Operating and Capital Expenditure Budget for a period before 1 July 2017)**: approve or vary an Operating and Capital Expenditure Budget in any material respect where such Operating and Capital Expenditure Budget is for a Financial Year ending on or before 30 June 2017;
- (f) **(Support Services)**: procure or obtain Support Services from any person other than a Constituent Council, an entity wholly by a Constituent Council or an entity wholly owned by both Councils;
- (g) **(dividends and reserves)**: declare, make or pay a dividend (including an interim dividend) or another distribution, set aside profits as reserves or capitalise any profits or reserves, other than in each case in accordance with article 13;
- (h) **(subsidiaries)**: form, participate in the formation of or acquire subsidiaries;
- (i) **(article 8.9(e))**: any matter required to be referred to the Voting Shareholders pursuant to article 8.9(e);
- (j) **(winding-up or dissolution)**: take any steps to dissolve or wind-up the Corporation or to cease to carry on the primary activities of the Corporation.

In this article 6.10, a reference to "material" is to be interpreted as a tolerance level of 10% above or below.

6.11 Resolutions in writing and other actions of Voting Shareholders

- (a) A resolution in writing signed by all the Voting Shareholders is as valid and effectual as if it had been passed at a general meeting of the Corporation duly convened and held at the time at which the written resolution was last signed by a

Voting Shareholder. Any such resolution may consist of several documents in like form, each signed by one or more Voting Shareholders.

- (b) A Voting Shareholder may, without limitation, make any appointment or give any consent, approval, requisition, authorisation or notice of the Voting Shareholder under this Constitution, including any written resolution under article 6.11(a), by way of a document:
- (i) signed by the Mayor and the General Manager of the relevant Council; or
 - (ii) to which the seal of the relevant Council has been affixed and attested in accordance with regulation 400(1) of the Local Government (General) Regulation 2005 (NSW),
- and given as relevant in accordance with article 20.

7. Directions from Voting Shareholders

7.1 Non-commercial activities

- (a) If the Voting Shareholders wish the Corporation to perform activities, or to cease to perform activities, or not to perform activities, in circumstances where the Board considers that it is not in the commercial interests of the Corporation to do so, they may, by written notice to the Board, direct the Corporation to do so in accordance with any requirements set out or referred to in the notice.
- (b) Before giving a notification under this article, the Voting Shareholders must:
- (i) consult with the Board;
 - (ii) request the Board to advise the Voting Shareholders whether, in its opinion, performing the relevant activity or ceasing to or not to perform the relevant activity would not be in the best interests of the Corporation or any of its subsidiaries; and
 - (iii) request the Board to provide to the Voting Shareholders an estimate of the costs of performing or ceasing to perform the relevant activity.
- (c) The Corporation and the Board must comply with any direction given under article 7.1(a) or request given under article 7.1(b).

7.2 Power of Voting Shareholders to notify Board of council policies

- (a) The Voting Shareholders may notify the Board, in writing, of a policy adopted by the Constituent Councils that is to apply to the Corporation and its subsidiaries (**Council Policy**), if the Voting Shareholders are satisfied that it is necessary to give the notification in the public interest.
- (b) The Board must ensure that the Council Policy is carried out in relation to the Corporation and must, as far as practicable, ensure that the Council Policy is carried out in relation to its subsidiaries.
- (c) Before giving a notification under this article, the Voting Shareholders must:
- (i) consult with the Board;

- (ii) request the Board to advise the Voting Shareholders whether, in its opinion, carrying out the Council Policy would not be in the best interests of the Corporation or any of its subsidiaries; and
- (iii) request the Board to provide to the Voting Shareholders an estimate of the costs of applying the Council Policy.
- (d) The Board must comply with any request made by the Voting Shareholders under article 7.2(c).
- (e) The Voting Shareholders must cause a notice to be published in the Gazette setting out the reasons why a notification was given under this article and why it is in the public interest that the notification be given.
- (f) A notice referred to in article 7.2(e) is to be published within one month after the notification is given.

7.3 Power of Voting Shareholders to give directions in public interest

- (a) The Voting Shareholders may give the Board a written direction in relation to the Corporation and its subsidiaries if they are satisfied that, because of exceptional circumstances, it is necessary to give the direction in the public interest.
- (b) The Board must ensure that the direction is carried out in relation to the Corporation and must, as far as practicable, ensure that the direction is complied with in relation to its subsidiaries.
- (c) Before giving a direction under this article, the Voting Shareholders must:
 - (i) consult with the Board;
 - (ii) request the Board to advise the Voting Shareholders whether, in its opinion, complying with the direction would not be in the best interests of the Corporation or any of its subsidiaries; and
 - (iii) request the Board to provide to the Voting Shareholders an estimate of the costs of complying with the direction.
- (d) The Board must comply with any request made by the Voting Shareholders under article 7.3(c).
- (e) The Voting Shareholders are required to cause a notice to be published in the Gazette setting out the reasons why a direction was given under this article and why it is in the public interest that the direction be given.
- (f) A notice referred to in article 7.3(e) is to be published within one month after the notification is given.

7.4 Statement of Corporate Intent

- (a) The Board will comply with, and ensure that the Corporation complies with, the requirements of sections 42 and 43 of the CCWC Act with respect to the preparation and content of the Statement of Corporate Intent.
- (b) The Voting Shareholders may from time to time by written notice to the Board direct the Board to include in or omit from a Statement of Corporate Intent any specified matters.

- (c) Before giving a direction under article 7.4(b), the Voting Shareholders must consult with the Board as to the matters to be referred to in the notice.
- (d) The Board and the Corporation must comply with any direction given under article 7.4(b).

8. Directors

8.1 Appointment and removal of directors

- (a) The Board of directors is to consist of such number of directors (being at least 3 but not more than 7) as, subject to the requirements of the CCWC Act, may be approved by the Voting Shareholders in general meeting or pursuant to a written resolution under article 6.11.
- (b) The directors are to be appointed in accordance with the requirements of the CCWC Act.
- (c) Each person recommended for appointment as a director must be a person who, in the opinion of the Voting Shareholders, will assist the Corporation to achieve its principal objectives referred to in article 3.
- (d) The Chief Executive Officer of the Corporation may, but need not, be appointed as a director.
- (e) The terms of appointment of each director will be on such terms as are approved by the Voting Shareholders and specified in the director's instrument of appointment.
- (f) Subject to this Constitution, a director holds office for such period (not exceeding 5 years) as may be specified in the director's instrument of appointment.

8.2 Vacation of office

- (a) The office of a director becomes vacant if the director:
 - (i) dies;
 - (ii) completes a term of office and is not reappointed;
 - (iii) resigns the office by letter addressed to the Voting Shareholders;
 - (iv) is removed from office under the CCWC Act or under Chapter 5 of the Public Sector Employment and Management Act 2002 (NSW);
 - (v) is removed from office by the Voting Shareholders under article 8.2(b);
 - (vi) is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to the director personally or in the ordinary course of post, except on leave granted by the Board or unless, before the end of 4 weeks after the last of those meetings, the director is excused by the Board for having been absent from those meetings;
 - (vii) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
 - (viii) becomes a mentally incapacitated person; or

- (ix) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (b) The Voting Shareholders may remove a director of the Corporation from office at any time for any or no reason by giving written notice of such removal to the director.

8.3 Remuneration of directors

- (a) Each director is entitled to be paid out of the funds of the Corporation such remuneration (including travelling and subsistence allowances) as the Voting Shareholders may from time to time determine. The terms of payment of such remuneration may, without limitation, be conditional on the relevant director attending meetings of the directors.
- (b) If any director is called upon to perform extra services or to make any special exertion for any purposes of the Corporation (including, without limitation, membership of a committee or acceptance of a delegation of powers by the directors), the Corporation may pay additional remuneration or provide benefits to that director as the Voting Shareholders may from time to time determine.

8.4 Interested directors

- (a) A director may hold any other office or place of profit in the Corporation (except that of auditor) in conjunction with the office of director, on such terms as the Voting Shareholders may approve.
- (b) If a director has a direct or indirect interest in a matter being considered, or about to be considered by the Board, the director must disclose the nature of the interest to a meeting of the Board as soon as practicable after the relevant facts come to the director's knowledge. Any disclosure made pursuant to this article must be recorded in the Board's minutes for that meeting.
- (c) No director:
 - (i) will be disqualified by virtue of holding the office of director from holding any office or place of profit in any corporation in which the Corporation is a shareholder or otherwise interested;
 - (ii) will be disqualified by virtue of holding the office of director from contracting with the Corporation or any corporation in which the Corporation is a shareholder or is otherwise interested, either as vendor, purchaser or otherwise and nor will any contract or arrangement entered into by or on behalf of the Corporation in which any director is in any way interested be avoided;
 - (iii) will be liable to account to the Corporation for any profit arising from that office or place of profit or realised by the contract or arrangement by reason only of the director holding that office or of the fiduciary relations thereby established,

provided that the nature of the director's interest is disclosed by the director to a meeting of the Board as soon as practicable after the relevant facts come to the director's knowledge.

- (d) Subject to article 8.4(e), a director of the Corporation who has a material personal interest in a matter that is being considered by the Board must not:
- (i) vote on the matter;
 - (ii) vote on a proposed resolution (a **related resolution**) under article 8.4(e) in relation to the matter (whether in relation to the director or another director);
 - (iii) be present while the matter, or a related resolution, is being considered by the Board; or
 - (iv) otherwise take part in any decision of the Board in relation to the matter or a related resolution,
- unless otherwise authorised to do so by the CCWC Act.
- (e) Article 8.4(d) does not apply to the matter if the Board has at any time passed a resolution that:
- (i) specifies the director, the interest and the matter; and
 - (ii) states that the directors voting for the resolution are satisfied that the interest should not disqualify the director from considering or voting on the matter.
- (f) In determining whether a quorum is present at a meeting of the Board during a consideration of such a matter by the Board, only those directors are regarded as present who are entitled to vote on any motion that may be moved in relation to the matter.
- (g) The Voting Shareholders may, by each signing a consent to a proposed resolution, deal with a matter if the Board cannot deal with it because of article 8.4(f).
- (h) No act of the Corporation is invalid or voidable by reason only of a failure of a director to comply with article 8.4(d).

8.5 Powers and duties of directors

- (a) Subject to articles 6.10 and 8.5(c), the directors:
- (i) are responsible for managing the business, affairs and operations of the Corporation and may exercise to the exclusion of the Corporation in general meeting all the powers of the Corporation which are not required by the CCWC Act or by this Constitution to be exercised by the Voting Shareholders in general meeting or pursuant to a written resolution under article 6.11;
 - (ii) may:
 - A. appoint any person to be an officer, agent or attorney of the Corporation 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 upon such conditions as they think fit; and

- B. authorise an officer, agent or attorney to delegate all or any of the powers, discretions and duties vested in the officer, agent or attorney.
- (b) A power of the Board can only be exercised by a resolution passed at a meeting of the Board in accordance with article 8.9, a resolution passed by signing a document in accordance with article 8.10 or in accordance with a delegation of the power pursuant to article 8.5(a)(ii).
- (c) The directors:
 - (i) are accountable to the Voting Shareholders in the manner set out in Part 4 of the CCWC Act and in this Constitution; and
 - (ii) must carry on and manage the business affairs and operations of the Corporation in a manner consistent with the Statement of Corporate Intent.

8.6 Convening of meetings of directors

- (a) The procedure for the calling of meetings of the Board of directors and for the conduct of business at those meeting is, subject to the CCWC Act, its regulations and this Constitution, to be as determined by the Board.
- (b) The Voting Shareholders may call the first meeting of the Board in such manner as they think fit.
- (c) There shall be a minimum of 6 directors meetings in each Financial Year commencing on or after 1 July 2011 and the directors shall use reasonable endeavours to hold a directors meeting at least bi-monthly.
- (d) The directors may, subject to the CCWC Act and this Constitution, meet together for the despatch of business and adjourn and otherwise regulate their meetings as they think fit.
- (e) A director may at any time, and the secretary at the requisition of a director may, convene a meeting of the directors.

8.7 Notice of meetings of directors

- (a) At least 5 days notice (or such shorter period as is agreed by the directors) of every directors' meeting will be given to each director (and deputy director) who is within Australia but it is not necessary to give notice to any director or deputy director who is outside Australia.
- (b) Notice of a meeting of directors may be given in writing, by email or by telephone, closed circuit television or other electronic means of audio or audio visual communication.

8.8 Quorum at meetings of directors

- (a) No business may be transacted at a meeting of the Board unless a quorum of directors is present at the time the business is dealt with.
- (b) The quorum for a meeting of the Board is a majority of directors then holding office which majority must (other than in the case of a resolution under article 8.4(e)) include:

- (i) any Gosford Director (or any deputy director appointed for the Gosford Director) (unless the Gosford Director consents in writing to the relevant meeting proceeding without the Gosford Director or any deputy director appointed for the Gosford Director being present); and
- (ii) any Wyong Director (or any deputy director appointed for the Wyong Director) (unless the Wyong Director consents in writing to the relevant meeting proceeding without the Wyong Director or any deputy director appointed for the Wyong Director being present).

8.9 Proceedings of directors

- (a) The chairperson of the Board or, in the absence of the chairperson, another director elected to chair the meeting by the directors present is to preside at a meeting of the Board.
- (b) The person presiding at any meeting of the Board has a deliberative vote and, in the event of an equality of votes:
 - (i) for any vote taken in the period up to 30 June 2017, that person will not have a second or casting vote; and
 - (ii) for any vote taken in the period after 30 June 2017, that person has a second or casting vote (however that person may elect not to cast the second or casting vote).
- (c) Subject to article 8.9(d), a decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.
- (d) The Corporation must not do, or commit to do, (either directly or through any subsidiary) any of the things listed below without the approval of a Special Majority of Directors:
 - (i) **(Board Committees)**: appoint, dissolve or alter the composition of any committee of the Board;
 - (ii) **(Delegation of powers)**: delegate any powers of the directors to a director or any committee of directors or to any other person under article 8.5(a)(ii);
 - (iii) **(Appointment or removal of CEO)**: appoint or recommend the removal of the Chief Executive Officer of the Corporation;
 - (iv) **(approve or vary the Operating and Capital Expenditure Budget for period after 30 June 2017)**: approve or vary an Operating and Capital Expenditure Budget in any material respect where such Operating and Capital Expenditure Budget is for a Financial Year commencing after 30 June 2017;
 - (v) **(Activities Outside of Councils' Area of Operations)**: undertake, perform or carry on any Activities Outside of Councils' Area of Operations, including entering into any binding legal obligation to do so;
 - (vi) **(Encumbrances)**: Encumber an asset or the undertaking of the Corporation or a subsidiary of the Corporation;

- (vii) **(Capital expenditure)**: incur capital expenditure where such expenditure is not in material accordance with the Approved Budget;
- (viii) **(Assets)**: acquire or Dispose of an asset or assets (either tangible or intangible) other than in the ordinary course of business, except as contemplated by or in material accordance with the Approved Budget or any Transfer Order;
- (ix) **(Appointment of directors of subsidiary or other corporation)**: appoint or remove a director of a subsidiary of the Corporation or any corporation that the Corporation has the power to appoint or remove;
- (x) **(Balance date)**: change the balance date or alter the accounting period of the Corporation;
- (xi) **(Auditor)**: appoint or remove the Corporation's auditor.

In this article 8.9(d), a reference to "material" is to be interpreted as a tolerance level of 10% above or below.

- (e) If because of a conflict of interest or other reason either (or both) the Gosford Director or the Wyong Director are not permitted by this Constitution or the CCWC Act to vote on a matter requiring the approval of a Special Majority of Directors under article 8.9(d), the matter shall be referred to the Voting Shareholders for determination.

8.10 Written resolutions of directors

- (a) The Board may, if it thinks fit, transact any of its business by the circulation of papers among all the directors of the Board for the time being. A resolution approved in writing by all directors is taken to be a decision of the Board passed at a meeting of directors held on the day on which the resolution was signed and at the time at which the resolution was last signed by a director or, if the directors signed the resolution on different days, on the day on which, and at the time at which the resolution was last signed by a director.
- (b) For the purposes of article 8.10(a), two or more separate documents containing a resolution in identical terms each of which is signed by one or more directors are deemed together to constitute one resolution signed by those directors on the respective days on which they signed the separate documents.
- (c) A resolution approved under article 8.10(a) is, subject to this Constitution, to be recorded in the minutes of the Board.
- (d) Papers may be circulated among the directors for the purposes of article 8.10(a) by facsimile, by email or other transmission of the information and a facsimile or similar means of communication addressed to or received by the Corporation and purporting to be signed by a director for the purpose of this Constitution is deemed to be a document in writing signed by that director.

8.11 Meetings by Technology

- (a) Each director, on becoming a director, consents to the use of the following technology for calling or holding a directors' meeting:
 - (i) video;

- (ii) telephone;
 - (iii) any other technology which permits each director to communicate with every other director;
 - (iv) any combination of the technologies described in the above paragraphs, but only if any director who speaks on a matter before the meeting can be heard by the other directors.
- (b) Where the directors are not all in attendance at one place and are holding a meeting using technology and each director can be heard by the other directors:
- (i) the participating directors shall for the purpose of every provision of this Constitution concerning meetings of the directors, be taken to be assembled together and to be present at that meeting; and
 - (ii) all proceedings of those directors conducted in that manner shall be effective as if conducted at a meeting at which all of the participating directors were present.

8.12 Chairperson

- (a) Of the directors, one is (in accordance with the requirements of the CCWC Act) to be appointed as chairperson of the Board.
- (b) The Chairperson may be removed from office as provided for and in accordance with the requirements of the CCWC Act.
- (c) A person who is a director and chairperson of the Board vacates office as chairperson if the person:
 - (i) is removed from the office of chairperson under article 8.12(b);
 - (ii) resigns from the office of chairperson by letter addressed to the Voting Shareholders; or
 - (iii) ceases to be a director of the Corporation.

8.13 Deputy Directors

- (a) The Voting Shareholders may, from time to time, appoint a person to be the deputy of a director of the Corporation, and the Voting Shareholders may revoke any such appointment.
- (b) A director's deputy may not be appointed from the councillors or employees of a Constituent Council unless the director was so appointed.
- (c) In the absence of a director, the director's deputy:
 - (i) is, if available, to act in the place of a director; and
 - (ii) while so acting, has all the functions of the director and is taken to be a director of the Corporation.
- (d) The deputy of a director who is chairperson of the Board does not have the director's functions as chairperson.

- (e) A person while acting in the place of a director is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Voting Shareholders may from time to time determine in respect of the person.

8.14 Filling of vacancy

If the office of a director of the Corporation becomes vacant, a person is, subject to the CCWC Act and this Constitution, to be appointed to fill the vacancy.

8.15 Committees of directors

- (a) The directors may with the approval of a Special Majority of Directors delegate any of their powers to a committee or committees consisting of such number of directors as they think fit and the directors may from time to time with the approval of a Special Majority of Directors revoke that delegation.
- (b) A committee to which any powers have been so delegated must exercise the powers delegated in accordance with any directions of the directors.
- (c) The provisions of this Constitution applying to meetings and resolutions of directors apply, so far as they can and with such changes as are necessary, to meetings and resolutions of a committee of directors.
- (d) Where a committee consists of two or more members, a quorum will be any two members or such larger number as the committee itself determines.

8.16 Delegation of individual directors

- (a) The directors may with the approval of a Special Majority of Directors 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.

8.17 Validity of acts

An act done by a person acting as a director or by a meeting of directors or a committee of directors attended by a person acting as a director is not invalidated by reason only of:

- (a) a defect in the appointment of the person as a director;
- (b) the person being disqualified to be a director or having vacated office; or
- (c) the person not being entitled to vote,

if that circumstance was not known by the person or the directors or committee (as the case may be) when the act was done.

9. Executive Officers

9.1 Chief Executive Officer

- (a) The Chief Executive Officer of the Corporation is to be appointed by the Board by Special Majority Resolution after consultation with the Voting Shareholders. The Board shall not, unless authorised to do so by the Voting Shareholders, appoint a Chief Executive Officer where such appointment is to take effect before 31 December 2013.

- (b) Subject to this article 9.1, the Chief Executive Officer holds office for such period (not exceeding 5 years) as may be specified in the Chief Executive Officer's instrument of appointment.
- (c) The directors may by Special Majority Resolution, after consultation with the Voting Shareholders, fix the conditions of employment of the Chief Executive Officer in so far as they are not fixed by or under any Act or law.
- (d) The Chief Executive Officer is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Board may by Special Majority Resolution from time to time determine.
- (e) The directors may require the Chief Executive Officer to enter into a performance agreement and must review the Chief Executive Officer's performance at least annually.
- (f) The directors may, by Special Majority Resolution, entrust and confer on the Chief Executive Officer such of the powers exercisable under this Constitution by the directors as they think fit.
- (g) The Voting Shareholders may remove or dismiss the Chief Executive Officer from that office at any time for any or no reason and without notice, but only on recommendation of the Board.
- (h) The Chief Executive Officer of the Corporation is, subject to this Constitution, responsible for the day to day management of the operation of the Corporation in accordance with the general policies and specific directions of the Board.
- (i) The Chief Executive Officer may:
 - (i) appoint any person to be an officer, agent or attorney of the Corporation for such purposes with such powers, authorities and discretions vested in or exercisable by the Chief Executive Officer for such period and upon such conditions as the Chief Executive Officer thinks fit; and
 - (ii) authorise an officer, agent or attorney to delegate all or any of the powers, discretions and duties vested in the officer, agent or attorney.
- (j) A power of attorney may contain such provisions for the protection and convenience of the attorney or persons dealing with the attorney as the Chief Executive Officer thinks fit.
- (k) The Chief Executive Officer may delegate any functions of the Chief Executive Officer of the Corporation but this power is subject to any directions of the Board.

9.2 Acting Chief Executive Officer

- (a) The Board may by Special Majority Resolution, from time to time, appoint a person to act in the office of Chief Executive Officer during the illness or absence of the Chief Executive Officer. The person, while so acting, has all the functions of the Chief Executive Officer and is taken to be the Chief Executive Officer. The Board must not, unless authorised to do so by the Voting Shareholders, appoint an acting Chief Executive Officer where such appointment is to take effect before 31 December 2013.
- (b) The Board may remove a person from office as acting Chief Executive Officer, at any time, for any or no reason and without notice.

- (c) A person while acting in the office of Chief Executive Officer is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Board by Special Majority Resolution may from time to time determine in respect of the person.
- (d) For the purposes of article 9.2, a vacancy in the office of Chief Executive Officer is regarded as an absence from office of the Chief Executive Officer.

9.3 Secretaries

- (a) The directors may appoint at least one secretary of the Corporation and may appoint additional secretaries.
- (b) The directors may appoint one or more assistant secretaries.
- (c) The appointment of a secretary or assistant secretary may be for such period, at such remuneration and upon such conditions as the directors think fit.

10. Approved Budget and Financial Year

10.1 Approved Budget

- (a) The Board must prepare an Operating and Capital Expenditure Budget for each Financial Year commencing on or after 1 July 2013 for approval:
 - (i) in the case of any such Operating and Capital Expenditure Budget which is for a Financial Year ending on or before 30 June 2017, by the Voting Shareholders in accordance with article 6.10(e);
 - (ii) in the case of any such Operating and Capital Expenditure Budget which is for a Financial Year commencing after 30 June 2017, by a Special Majority of Directors in accordance with article 8.9.
- (b) The Operating and Capital Expenditure Budget must (unless otherwise approved in writing by the Voting Shareholders):
 - (i) have regard to and be consistent with the financial performance targets for the Corporation as set out in the Statement of Corporate Intent (including any dividend payout amounts or ratios, capital investment program, borrowings or debt/equity amounts or ratios specified in the Statement of Corporate Intent); and
 - (ii) include such information and content as may be specified in writing by the Voting Shareholders from time to time.
- (c) The Board must consult with the Voting Shareholders when preparing the draft Operating and Capital Expenditure Budget for a Financial Year and submit a draft of the Operating and Capital Expenditure Budget to the Voting Shareholders for consideration not later than 30 November in the calendar year immediately before the commencement of the relevant Financial Year. .

10.2 Financial Year

- (a) Subject to article 10.2(b), each financial year of the Corporation shall be a 12 month period commencing on 1 July and ending on 30 June.

- (b) The first financial year of the Corporation shall commence on the date the Corporation is constituted under section 4 of the CCWC Act and end on 30 June 2011.

11. Private corporations, acquisitions and disposals

The Corporation is expressly prohibited from exercising any power of the Corporation in contravention of any requirement of or under section 24 or 25 of the CCWC Act.

12. Seals

12.1 Seal and safe custody of seal

- (a) The Corporation is to have a seal.
- (b) The directors must provide for the safe custody of the seal.

12.2 Use of seal

- (a) The seal must 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 seal.
- (b) The authority to use the seal may be given before or after the seal is used.
- (c) Until the directors otherwise determine, every document to which the seal is affixed must be signed by a director and countersigned by another director, a secretary or another person appointed by the directors to countersign that document or a class of documents in which that document is included.

12.3 Seal register

- (a) The Corporation must keep a seal register and, upon the affixing of the seal to any document (other than a certificate for securities of the Corporation), must enter in the register particulars of the document, giving in each case the date of the document, the names of the parties to the document, a short description of the document and the names of the persons signing and countersigning the document under article 12.2(c).
- (b) The register must be produced at meetings of directors for confirmation of the use of the seal since confirmation was last given under this article 12.3.
- (c) Failure to comply with article 12.3(a) or (b) does not invalidate any document to which the seal is properly affixed.

13. Dividends

13.1 Dividend scheme

- (a) The Corporation must not pay a dividend unless:
 - (i) the Corporation's assets exceed its liabilities immediately before the dividend is declared and the excess is sufficient for the payment of the dividend; and
 - (ii) the payment of the dividend does not materially prejudice the Corporation's ability to pay its creditors.

Assets and liabilities are to be calculated for the purposes of this article in accordance with accounting standards applicable to the Corporation and in force at the relevant time.

- (b) Subject to articles 13.1(a) and 13.1(d), the power to declare dividends, pay interim dividends and fix the time and method of their payment is vested in the Voting Shareholders.
- (c) Subject to articles 13.1(a) and 13.1(d), the Directors may recommend to the Voting Shareholders the declaration of a dividend, the payment of an interim dividend and the time and method of their payment. The Directors must consult with the Voting Shareholders before making any such recommendation.
- (d) Subject to article 13.1(a), every dividend is to be of such amount and paid at such time, by such method and in such instalments as may be agreed between the Voting Shareholders and the Directors. If the Voting Shareholders and the Directors do not reach agreement on any of these matters, the Voting Shareholders may, by written notice to the Directors, determine the matter or matters not agreed, and the Directors must act in conformity with the determination. Before giving such a notice, the Voting Shareholders must consult with the Chairperson of directors as to the matters to be referred to in the notice.
- (e) The Corporation is not required to pay any interest on a dividend.

13.2 Capitalisation of profits

- (a) The Directors may, with the consent of the Voting Shareholders, resolve that any moneys, investments or other assets:
 - (i) forming part of the undivided profits of the Corporation;
 - (ii) standing to the credit of a reserve; or
 - (iii) of the Corporation and available for dividend,be capitalised and applied in any of the ways referred to in article 13.2(b) for the benefit of the Voting Shareholders.
- (b) The ways in which moneys, investments or other assets referred to in article 13.2(a) may be applied for the benefit of the Voting Shareholders are:
 - (i) in paying up an amount unpaid on shares already issued;
 - (ii) in paying up in full any unissued shares or other securities in the Corporation; or
 - (iii) any other application approved by the Voting Shareholders and permitted by law.
- (c) The Directors must do all things necessary to give effect to a resolution under article 13.2(a).

13.3 Reserves

- (a) The Directors may, with the consent of the Voting Shareholders, before recommending or paying a dividend set aside out of the profits of the Corporation 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 Corporation may properly be applied.

- (b) Pending such application, the reserves may at the discretion of the Directors, but subject the terms of this Constitution, be used in the business of the Corporation or be invested in such investments as the Directors think fit.
- (c) The Directors, with the consent of the Voting Shareholders, 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.

14. Subsidiaries

- (a) The Corporation must not form, participate in the formation of or acquire subsidiaries without the prior written approval of the Voting Shareholders.
- (b) The Corporation must ensure that the constitution of its subsidiaries at all times contain provisions to the effect of those required by Schedule 2 to the CCWC Act.
- (c) The Corporation must, to the maximum extent practicable, ensure that every subsidiary complies with its constitution (if any) and with the requirements of the CCWC Act.

15. Minutes and Records

15.1 Minutes and records

The directors must cause minutes of all proceedings of general meetings and of meetings of directors and of committees of the directors to be entered, within one month after the relevant meeting is held, in folders kept for that purpose.

15.2 Signing of minutes

Those minutes must be signed by the chairperson of the meeting at which the proceedings took place or by the chairperson of the next succeeding meeting.

15.3 Minutes as evidence

Any minutes of a meeting purporting to be signed by the chairperson of the meeting or of the next succeeding meeting are (in the absence of proof to the contrary) sufficient evidence of:

- (a) the matters stated in the minutes of the meeting; and
- (b) the meeting having been duly convened and held; and the validity of all proceedings at the meeting.

15.4 Inspection of records

- (a) The directors must supply to the Voting Shareholders such information (including reports and access to the books and records of the Corporation) relating to the affairs of the Corporation or any of its subsidiaries as the Voting Shareholders may from time to time request (whether or not the information is of a kind referred to in the Statement of Corporate Intent).

- (b) The directors must act in good faith and use their best endeavours to comply with any request given under article 15.4(a) within any timeframe specified in the request.

15.5 Accounts

The Corporation will keep such accounting and other records of the business of the Corporation as:

- (a) it is required to keep under law (including as required under section 45(1) of the CCWC Act); and
- (b) prescribed in the Statement of Corporate Intent.

16. Reporting

In addition to its reporting obligations under Part 4 of the CCWC Act, the Corporation shall prepare and provide to the Voting Shareholders such financial, community based and other reports and information as the Voting Shareholders may request from time to time.

17. Tax-equivalents

The Corporation must pay to the Constituent Councils all amounts required to be paid by the Corporation pursuant to section 20 of the CCWC Act.

18. Distribution of assets on dissolution or winding-up

On a winding-up or dissolution of the Corporation, any surplus assets of the Corporation remaining after the payment or satisfaction of its debts (including any debts owed to a Voting Shareholder) must be distributed to the Constituent Councils in equal shares.

19. Protection of Certain Officers

19.1 Indemnity

- (a) Subject to article 19.1(c) and 19.1(d), the Corporation must not:
 - (i) indemnify a person who is or has been an officer of the Corporation against a liability incurred as an officer; or
 - (ii) exempt a person who is or has been an officer of the Corporation from a liability incurred as an officer.
- (b) An instrument is void so far as it provides for the Corporation to do something that article 19.1(a) prohibits.
- (c) Article 19.1(a) does not prevent the Corporation from indemnifying a person against civil liability (other than a liability to the Corporation or a subsidiary of the Corporation) unless the liability arises out of conduct involving a lack of good faith.
- (d) Article 19.1(a) does not prevent the Corporation from indemnifying a person against a liability for costs and expenses incurred by the person:
 - (i) in defending a proceeding, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or

- (ii) in connection with an application in relation to a proceeding in which relief is granted to the person by a court.
- (e) The Corporation may give an indemnity mentioned in articles 19.1(c) or 19.1(d) only with prior approval of the Voting Shareholders.
- (f) In this article 19.1:

indemnify includes indemnify indirectly through one or more interposed entities.

officer of the Corporation means:

- (i) a director of the Corporation; or
- (ii) the Chief Executive Officer; or
- (iii) another person who is concerned, or takes part, in the Corporation's management.

19.2 Insurance

- (a) Subject to article 19.2(b), the Corporation must not pay, or agree to pay, a premium in relation to a contract insuring a person who is or has been an officer of the Corporation against a liability:
 - (i) incurred by the person as an officer; and
 - (ii) arising out of conduct involving:
 - A. a wilful breach of duty in relation to the Corporation; or
 - B. without limiting subparagraph (i), a contravention of Schedule 6, clause 3 (4) or (5) of the CCWC Act.
- (b) Article 19.2(a) does not apply to a liability for costs and expenses incurred by a person in defending proceedings, whether civil or criminal, and whatever their outcome.
- (c) An instrument is void so far as it insures a person against a liability in contravention of article 19.2(a).
- (d) In this article 19.2:

officer of the Corporation means:

 - (i) a director of the Corporation; or
 - (ii) the Chief Executive Officer; or
 - (iii) another person who is concerned, or takes part, in the Corporation's management.

pay includes pay indirectly through one or more interposed entities.

20. Notices**20.1 Notices to Voting Shareholders**

- (a) A notice may be given to a Voting Shareholder by:
- (i) serving it personally on the Public Officer or the General Manager of the relevant Council;
 - (ii) sending it by post in a prepaid envelope to the Voting Shareholder's address as shown in the register of Voting Shareholders and marked to the attention of the Public Officer or the General Manager or such other address as the Voting Shareholder has supplied to the Corporation for the giving of notices;
 - (iii) by facsimile transmission to such facsimile number as the Voting Shareholder has supplied to the Corporation for the giving of notices and marked to the attention of the Public Officer or the General Manager; or
 - (iv) transmitting it electronically to the electronic mail address as the Voting Shareholder has supplied to the Corporation for the giving of notices.
- (b) The fact that a person has supplied a facsimile number or electronic mail address for the giving of notices does not require the Corporation to give any notice to that person by facsimile or electronic mail.
- (c) A signature to any notice to a Voting Shareholder under this article 20.1 may be in writing or a facsimile printed or affixed by some mechanical, electronic or other means.

20.2 Notices by the Corporation or Voting Shareholders to directors

Subject to this Constitution, a notice may be given by the Corporation or any Voting Shareholder to any director by:

- (a) serving it personally on the director;
- (b) sending it by post in a prepaid envelope to the director's usual residential or business address, or such other address as the director has supplied to the Corporation for the giving of notices;
- (c) facsimile transmission to such facsimile number as the director has supplied to the Corporation for the giving of notices; or
- (d) transmitting it electronically to the electronic mail address given by the director to the Corporation for the giving of notices.

20.3 Notices by Voting Shareholders or directors to the Corporation

Subject to this Constitution, a notice may be given by a Voting Shareholder or director to the Corporation by:

- (a) serving it on the Corporation at the principal place of business of the Corporation;
- (b) sending it by post in a prepaid envelope to the principal place of business of the Corporation;

- (c) facsimile transmission to the principal facsimile number at the principal place of business of the Corporation; or
- (d) transmitting it to such electronic mail address as the Corporation may specify in writing to the Voting Shareholders and the directors from time to time.

20.4 Time of service

- (a) Where a notice is sent by post, service of the notice is to be taken to be effected if a prepaid envelope containing the notice is properly addressed and placed in the post and to have been effected:
 - (i) in the case of a notice of a general meeting, on the day after the date of its posting; or
 - (ii) in any other case, at the time at which the letter would be delivered in the ordinary course of post.
- (b) Where a notice is sent by facsimile transmission, service of the notice is to be taken to be effected if the correct facsimile number appears on the facsimile transmission report generated by the sender's facsimile machine and to have been effected at the time the facsimile transmission is sent.
- (c) Where a notice is sent by electronic transmission, service of the notice is taken to be effected by properly addressing and transmitting the notice or other document and to have been effected at the time the electronic transmission is sent.

20.5 Other communications and documents

Articles 20.1 to 20.4 (inclusive) apply, so far as they can and with such changes as are necessary, to the service of any communication or document, including, for the avoidance of doubt, Board papers.

20.6 Notice in writing

A reference in this Constitution to a notice in writing includes a notice given by facsimile or electronic transmission or any other form of written communication.

21. General

21.1 Submission to jurisdiction

Each Voting Shareholder submits to the non-exclusive jurisdiction of the Supreme Court of New South Wales and the Courts which may hear appeals from that Court.

21.2 Prohibition and enforceability

- (a) Any provision of, or the application of any provision of, this Constitution which is prohibited in any place is, in that place, ineffective only to the extent of that prohibition.
- (b) Any provision of, or the application of any provision of, this Constitution which is void, illegal or unenforceable in any place does not affect the validity, legality or enforceability of that provision in any other place or of the remaining provisions in that or any other place.

21.3 Merger of Councils

If in the future there is any statutory merger or amalgamation of the Constituent Councils, this Constitution will be amended to take account of that merger or amalgamation as the case may be.

22. Definitions and Interpretation

22.1 Definitions

In this Constitution:

Activities Outside of Councils' Area of Operations means:

- (a) construct, operate, manage or maintain water supply or sewerage management works, or
- (b) provide water supply or sewerage management services,

on or for the benefit of land situated outside of the Councils' Area of Operations.

Approved Budget means the Operating and Capital Expenditure Budget for a relevant Financial Year as approved or varied in accordance with the terms of this Constitution;

Board means the board of directors of the Corporation;

CCWC Act means the Central Coast Water Corporation Act 2006 (NSW);

Chief Executive Officer means a person appointed as Chief Executive Officer under article 9.1;

Constituent Council means each of Gosford City Council and Wyong Shire Council;

Corporation means the Central Coast Water Corporation as constituted under section 4 of the CCWC Act;

Council Policies has the meaning given in article 7.2(a);

Councils' Area of Operations means the combined area of:

- (a) Wyong Shire Council's local government area under the Local Government Act 1993 (NSW); and
- (b) Gosford City Council's local government area under the Local Government Act 1993 (NSW);

deputy director means a person duly appointed under article 8.13 to be the deputy of a director;

directors means the directors for the time being of the Corporation or the directors assembled as the Board;

Dispose in relation to a person and any property means:

- (a) to sell, offer for sale, transfer, assign, surrender, gift, create an Encumbrance or option over, declare oneself a trustee of or part with the benefit of or otherwise dispose of that property (or any interest in it or any part of it);

- (b) to do anything which has the effect of placing a person in substantially the same position as if the person had done any of the things specified in paragraph (a); or
- (c) to attempt to do any of the things specified in paragraph (a);

Encumber means grant an Encumbrance or allow an Encumbrance to be created;

Encumbrance means a mortgage, charge, pledge, lien, security interest, title retention, preferential right, trust arrangement or any other security agreement or arrangement in favour of any person whether registered or unregistered;

Financial Year means, as relevant, the periods referred to in articles 10.2(a) and 10.2(b);

general meeting means a meeting of the Voting Shareholders convened under article 6.1;

Gosford Director means a director (other than the chairperson of directors) who Gosford City Council has nominated as the "Gosford Director" for the purposes of this Constitution, such nomination to be made in writing and provided to Wyong Shire Council and the chairperson of directors. For the avoidance of doubt, Gosford City Council is not required to nominate a Gosford Director, and if it does nominate a Gosford Director may from time to time by written notice to Wyong Shire Council and the chairperson of directors revoke the nomination and nominate another director (other than the chairperson of directors) to be the Gosford Director;

Minister has the same meaning as in the CCWC Act;

Operating and Capital Expenditure Budget means the Operating and Capital Expenditure Budget for a relevant Financial Year to be prepared in accordance with article 10.1.

Public Officer means the public officer of the relevant Council appointed pursuant to Chapter 11 of the Local Government Act 1993 (NSW).

Seal means any common seal, official seal, share seal or certificate seal of the Corporation;

Secretary means any person appointed to the office of Secretary of the Corporation pursuant to article 9.3.

shares means shares in the Corporation;

Special Majority of Directors means, in relation to a resolution of directors, a resolution passed by the affirmative vote of a majority of the directors then in office and which majority must include:

- (a) any Gosford Director then in office (or any deputy director appointed for the Gosford Director); and
- (b) any Wyong Director then in office (or any deputy director appointed for the Wyong Director);

Statement of Corporate Intent means the statement of corporate intent applicable to the Corporation from time to time under section 42 of the CCWC Act;

Support Services means:

- (a) human resources (HR), information technology (IT), finance and accounting, plant and fleet and such other services as may be notified by the Voting Shareholders to the Corporation to constitute "Support Services" for the purposes of this definition;

- (b) but excludes any services notified by the Voting Shareholders to the Corporation to not constitute "Support Services" for the purposes of this definition.

Transfer Order means any order made by a Constituent Council under section 32 of the CCWC Act to transfer any asset, liability, contract or employee of the Constituent Council to the Corporation;

Voting Shareholder means the shareholders of the Corporation in their capacity as shareholders in the Corporation;

Voting Shareholders' Agreement means the Voting Shareholders' Agreement entered into by the Constituent Councils on or about the date of this Constitution;

Wyong Director means a director (other than the chairperson of directors) whom Wyong Shire Council has nominated to be the "Wyong Director" for the purposes of this Constitution, such nomination to be made in writing and provided to Gosford City Council and the chairperson of directors. For the avoidance of doubt, Wyong Shire Council is not required to nominate a Wyong Director, and if it does nominate a Wyong Director may from time to time by written notice to Gosford City Council and the chairperson of directors revoke the nomination and nominate another director (other than the chairperson of directors) to be the Wyong Director.

22.2 Interpretation

- (a) A reference in an article in general terms to a person holding or occupying a particular office or position includes a reference to any person who occupies or performs the duties of that office or position for the time being.
- (b) In this Constitution, headings and underlinings are for convenience only and do not affect the interpretation of this Constitution and, unless the contrary intention appears:
- (i) words importing the singular include the plural and vice versa;
 - (ii) words importing a gender include every other gender;
 - (iii) words used to denote persons generally or importing a natural person include any company, corporation, body corporate, body politic, partnership, joint venture, association, board, group or other body (whether or not the body is incorporated);
 - (iv) a reference to any statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws varying, consolidating or replacing them and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute; and
 - (v) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

We, the several persons whose names and addresses are set out below, being the Voting Shareholders of the Corporation, hereby agree to this Constitution.

DATED:

Executed by Gosford City Council under seal in accordance with regulation 400(1) of the Local Government (General) Regulation 2005 (NSW):

Signature of Mayor

Full name of Mayor

Signature of General Manager

Full name of General Manager

Executed by Wyong Shire Council under seal in accordance with regulation 400(1) of the Local Government (General) Regulation 2005 (NSW):

Signature of Mayor

Full name of Mayor

Signature of General Manager

Full name of General Manager