



# CONSTITUTION OF

# Bicycle Queensland

**History of Document**

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**Date**

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# CONSTITUTION OF Bicycle Queensland

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## 1. DEFINITIONS AND INTERPRETATION

### 1.1 Definitions

The following definitions apply in this document:

**Act** means the *Corporations Act 2001* (Cth).

**Auditor** means the auditor of the Company as appointed by the Board from time to time.

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

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

**Director** means a person who is a Director of the Company, as determined from time to time.

**Gift or Gifts** means a gift of money, property or deductible contributions which originate from deductible sources.

**ITAA** means the *Income Tax Assessment Act 1997* (Cth) and *Income Tax Assessment Act 1936* (Cth).

**Member** means a person who is a member of the Company under rule 16.

**Objects** means the objects of the Company as set out in rule 4.1.

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

**Qualifications** means the criteria which must be satisfied prior to any of a person being appointed as a Director, as set out in rule 8.7.

**Register** means the register of Members kept as required by sections 168 and 169.

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

**Special Resolution** has the meaning given in the Act.

**Tax Act** has the same meaning as ITAA.

## 1.2 Interpretation of this Document

This rule 1.2 specifies the rules for interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) The headings are for convenience only and do not affect the interpretation of this document.
- (b) A reference to:
  - (i) legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
  - (ii) a document (including this document), or a provision of a document (including a provision of this document), is to that document or provision as amended or replaced;
  - (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;
  - (iv) anything (including a right, obligation or concept) includes each part of it; or
  - (v) a rule is to a rule in this document.
- (c) A singular word includes the plural, and vice versa.
- (d) A word which suggests one gender includes any other gender.
- (e) If a word is defined, another part of speech of that word has a corresponding meaning.
- (f) The word “agreement” includes an undertaking or other binding arrangement or understanding whether or not in writing (unless the context specifies that it must be in writing).
- (g) A reference to something being “written” or “in writing” includes that thing being represented or reproduced in any mode in a visible form.
- (h) A word (other than a word defined in rule 1.1) which is defined by the Act has the same meaning in this document where it relates to the same matters as the matters for which it is defined in the Act.
- (i) A reference to a Chapter, Part, Division, or section is a reference to a Chapter, Part, Division or section of the Act.

## 2. NAME OF THE COMPANY

The name of the Company is Bicycle Queensland (**Company**).

### **3. CHARITABLE INSTITUTION**

The Company is to be endorsed as exempt from tax under Subdivision 50-B of the ITAA (endorsement as a Tax Concession Charity). The institution is established as a charitable institution, pursues charitable purposes only and applies its income in promoting these purposes.

### **4. OBJECTS**

#### **4.1 Objects of the Company**

The objects for the Company are to:

- (a) promote bicycle riding for fitness, recreation and transport;
- (b) influence government policy and investment in infrastructure to improve riding experiences across Queensland;
- (c) facilitate participation in riding within the community (by reducing barriers to riding and by building rider confidence);
- (d) promote and advocate for the recognition of riders' needs, rights and responsibilities (including riders who are not Members of the Company);
- (e) impact health outcomes for the wider community by promoting the benefits of cycling (and being active) as a means to improve mental well-being and prevent and control diseases connected with physical inactivity;
- (f) collaborate with public or private sector research initiatives that examine issues relating to riding that help fulfil or promote the Objects of the Company;
- (g) promote bicycle riding as a low impact, healthy, convenient and sustainable form of active transport to improve environmental sustainability and build more livable, productive and socially connected communities across the state;
- (h) receive all gifts of money or property for this purpose and invite the public to make gifts of money or property for the promotion of the Objects of the Company;
- (i) support and promote the charitable aims and objectives of similar organisations or charities, or private not for profit organisations which have been created with Objects similar to the Company as considered appropriate by the directors of the Company;
- (j) attract and encourage and acquire gifts, bequests and all forms of deferred gifts to enable the fulfilment of these Objects; and
- (k) do all things necessary to promote the objects of the Company contained in rules 4.1(a) to 4.1(j) above.

## **4.2 Limitations**

Subject to rule 6, the Company can only exercise the powers in section 124(1) of the Act to:

- (a) carry out the Objects of the Company;
- (b) do all things incidental or convenient in relation to the exercise of power under rule 4.2(a).

## **5. PUBLIC COMPANY**

### **5.1 Public Company**

The Company is a public company limited by guarantee.

### **5.2 Limitation of liability**

- (a) The liability of each Member is limited.
- (b) Each Member undertakes to contribute to the property of the Company, if the Company is wound up while the Member is a Member or within one year after the Member ceases to be a Member, for payment of:
  - (i) the Company's debts and liabilities;
  - (ii) the costs, charges and expenses of winding up; and
  - (iii) for the adjustment of the rights of the contributions among themselves, such amount as may be required, but not exceeding \$10.

### **5.3 Replaceable Rules**

The replaceable rules referred to in section 141 do not apply to the Company and are replaced by the rules set out in this document.

## **6. INCOME AND PROPERTY**

The assets and income of the organisation shall be applied solely in furtherance of the above-mentioned objects and no portion shall be distributed directly or indirectly to the Members of the organisation except as bona fide compensation for services rendered or expenses incurred on behalf of the organisation.

## **7. COMPOSITION & NUMBER OF DIRECTORS**

### **7.1 Composition of the Board**

- (a) The Board shall be comprised of at least 7 Directors.
- (b) The rules for nomination, appointment and removal of Directors are set out in rule 8 and shall have regard to the Diversity requirements set out in rule 7.2.



## **7.2 Diversity (gender and skill-set)**

- (a) The Board shall aim to achieve diversity of gender and skill-set on its Board.
- (b) The Board shall use its reasonable endeavours to encourage nominations to the Board which achieve both gender and skill-set diversity on the Board.

## **7.3 Cessation of Director's Appointment**

- (a) Regardless of the rules of nomination, appointment and removal of Directors prescribed within rule 8, a person automatically ceases to be a Director if the person:
  - (i) dies;
  - (ii) is not permitted by the Act (or an order made under the Act) to be a director;
  - (iii) becomes disqualified from managing corporations under Part 2D.6 of the Act and is not given permission or leave to manage the Company under section 206F or 206G of the Act;
  - (iv) becomes of unsound mind or physically or mentally incapable of performing the functions of that office;
  - (v) in respect of a Member Director, ceases to be a member of the Company;
  - (vi) fails to attend 3 Board meetings for a continuous period of 12 months without leave of absence from the Board;
  - (vii) resigns by notice in writing to the Company,or if the person was appointed to the office for a term and that term expires.

## **7.4 Casual Vacancy**

- (a) A person may be appointed to be a Director to either to fill a casual vacancy or in addition to the existing Directors, so long as the total number of Directors does not at any time exceed the number decided by the Board.
- (b) Any Director appointed pursuant to this rule 7.4 will hold office only until the next annual general meeting and shall be eligible for re-appointment in accordance with this Constitution.

## **8. APPOINTMENT AND REMOVAL OF DIRECTORS**

### **8.1 Transition of management committee as Directors**

Upon the adoption of this document, the existing members of the management committee will become the Directors.

## **8.2 Number of Directors**

The number of the Directors that may be appointed to the Board is a minimum of 3.

## **8.3 Appointment and nomination of a Director**

A person may, by majority resolution of the Members, be appointed to be a Director.

## **8.4 Resignation of a Director**

A Director may only be removed by majority resolution of the Members.

## **8.5 Maximum term of appointment of Directors**

- (a) A Director may only serve on the Board as a Director for:
  - (i) a term of up to 3 years; and
  - (ii) a maximum period of 9 years.
- (b) A Director shall not hold office for a period in excess of:
  - (i) three years; or
  - (ii) until the third annual general meeting following the director's appointment, whichever is the longer,without submitting themselves for re-election.
- (c) At every annual general meeting:
  - (i) one-third of the Directors; or
  - (ii) if their number is not a multiple of three, then the number necessary to ensure that no director goes more than three years and to ensure compliance with this rule 8.5),shall retire from office and be eligible for re-election.
- (d) The Directors to retire in every year shall be the Directors longest in office since last being re-elected. Between the Directors who were elected on the same day the Director to retire shall be decided by lot unless they otherwise agree.
- (e) A retiring Director shall be eligible for re-election without needing to give any prior notice of an intention to submit for re-election and shall hold office as a Director until the end of the meeting at which the Director retires.

## **8.6 Election procedure for Directors**

- (a) If the number of candidates for election as Directors is equal to or less than the number of vacancies on the Board, the Chairman must declare those candidates to be duly elected as Directors.

- (b) If the number of candidates for election as Directors is greater than the number of vacancies on the Board, a ballot must be held for the election of the candidates.
- (c) If a ballot is required, balloting lists must be prepared listing the names of the candidates only in alphabetical order.
- (d) The candidates receiving the greatest number of votes cast in their favour must be declared by the Chairman to be elected as Directors.
- (e) If an equality of votes would otherwise prevent the successful candidate for a vacancy from being determined, the Chairman, prior to the declaration of the result of the ballot, in addition to his or her deliberative vote (if any) is entitled to a casting vote, except that if the Chairman:
  - (i) does not exercise a casting vote; or
  - (ii) is one of the candidates who received the same number of votes;then the names of the candidates who received the same number of votes must be put to a further ballot immediately.

## **8.7 Qualifications**

A Director must be a Member of the Company whilst holding office as a Director but must not be currently employed by the Company.

## **8.8 Time appointment or retirement takes effect**

Except in respect to the Member Directors appointed as a part of the transition process contemplated in rule 8.1, Directors who are appointed:

- (a) to fill a casual vacancy, at a meeting of Board take office immediately after the end of the meeting; or
- (b) at a meeting of the Members, take office immediately after the end of the meeting of the Members.

## **9. POWERS OF THE BOARD**

### **9.1 Powers Generally**

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

- (a) has the power to manage the business of the Company; and
- (b) may exercise every right, power or capacity of the Company to the exclusion of the Company in general meeting and the Members.

## **9.2 Exercise of Powers**

- (a) Subject to the Act and to any other provisions of this Constitution, the business of the Company shall be managed by the Directors, who may pay all expenses incurred in promoting and forming the Company, and may exercise all such powers of the Company as are not, by the Act or this Constitution, required to be exercised by the Company in general meeting of the Board or otherwise in accordance with rules 7, 8, 10 or 14 (as the case may be).
- (b) Without limiting the generality of rule 9.2(a), the Board may exercise all the powers of the Company to borrow money, to change any property or business of the Company and to issue debentures or give any security for a debt, liability or obligation of the Company or of any other person.

## **9.3 Executing Negotiable Instruments**

The Board must decide the manner (including the use of facsimile signatures if thought appropriate) in which negotiable instruments can be executed, accepted or endorsed for and on behalf of the Company. The Company may execute, accept, or endorse negotiable instruments only in the manner for the time being decided by the Board.

## **10. DELEGATION OF BOARD POWERS**

### **10.1 Power to Delegate**

The Board may delegate any of its own powers as permitted by section 198D.

### **10.2 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.

### **10.3 Terms of Delegation**

- (a) A delegation of powers under rule 10.1 may be made:
  - (i) for a specified period or without specifying a period; and
  - (ii) on the terms (including power to further delegate) and subject to any restrictions the Board decides.
- (b) 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.

### **10.4 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.

## **11. DIRECTORS' DUTIES AND INTERESTS**

### **11.1 Compliance with Duties under the Act**

Each Director must comply with the sections 180 to 183 (inclusive).

### **11.2 Director Not Disqualified from Holding Other Offices**

Subject to rule 8.7 which prohibits an employee of the Company from being a Director, a person is not disqualified, by reason only of being a Director, from:

- (a) holding any office or place of profit other than that of the Company's Auditor;
- (b) being a Member or creditor of any corporation (including the Company) or partnership other than the Auditor; or
- (c) entering into any agreement with the Company.

### **11.3 Disclosure of Interests**

- (a) A Director is not disqualified by their office from contracting with the Company in any capacity whatsoever.
- (b) A Director who has a material personal interest in a matter that relates to the affairs of the Company must give the other Directors notice of the interest unless section 191 provides otherwise.

### **11.4 Director Interested in a Matter**

If a Director has an interest in a matter that relates to the affairs of the Company and either the Director discloses the interest under section 191 or it is not required to be disclosed under section 191:

- (a) subject to a resolution by the Board to the contrary, a Director who has a material personal interest must not:
  - (i) be present while the matter is being considered at the meeting;
  - (ii) vote on the matter; or
  - (iii) be counted in a quorum at a Board meeting in which the matter is considered;
- (b) the Company may proceed with any transaction that relates to the interest and the Director may participate in the execution of any relevant document by or on behalf of the Company;
- (c) the Director may retain benefits under the transaction even though the Director has the interest; and
- (d) the Company cannot avoid the transaction merely because of the existence of the interest.

If the interest is required to be disclosed under section 191, rule 11.4(c) applies only if it is disclosed before the transaction is entered into.

## **12. REMUNERATION OF DIRECTORS**

- (a) The Directors shall not be paid remuneration.
- (b) The Directors may be reimbursed for all expenses properly incurred in attending or in connection with their attendance at any meeting of the Company or of the Board or any committee of Directors.

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

### **13.1 Indemnity**

- (a) Subject to the Act:
  - (i) the Company, to the extent the person is not otherwise indemnified:
    - (A) must indemnify every officer of the Company and every officer of the Company's wholly owned subsidiary; and
    - (B) may indemnify the Company's Auditor,  
  
against a Liability incurred as such an officer or Auditor (other than to the Company or a related body corporate of the Company), including a Liability incurred as a result of the Company or a wholly owned subsidiary of the Company appointing or nominating the officer as trustee or officer of another corporation, unless the Liability arises out of conduct involving a lack of good faith; and
  - (ii) the Company may make a payment (whether by way of advance, loan or otherwise) in respect of legal costs incurred by an officer or Auditor in defending an action for a Liability incurred as such an officer or Auditor or in resisting or responding to actions taken by a government agency or a liquidator.
- (b) In relation to 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.

### **13.2 Insurance**

Subject to the Act, the Company may enter into, and pay premiums on, a contract of insurance in respect of any person.

### **13.3 Former Officers**

The indemnity in favour of officers under rule 13.1 is a continuing indemnity. It applies in respect of all acts done by a person while an officer of the Company or one of its wholly owned subsidiaries even though the person is not an officer at the time the claim is made.

#### **13.4 Deeds**

Subject to the Act, without limiting a person's rights under this rule 13, the Company may enter into an agreement with a person who is or has been an officer of the Company or any of the Company's subsidiaries, to give effect to the rights of the person under this rule 13 on any terms and conditions that the Board thinks fit.

### **14. BOARD MEETINGS**

#### **14.1 Convening Board Meetings**

At least 3 Directors (acting jointly) may, at any time, request that the Secretary convene a Board meeting and the Secretary must convene a Board meeting.

#### **14.2 Minimum number of Board Meetings**

The Board must meet not less than 6 times in any 12 month period.

#### **14.3 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; and
- (b) may give 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.

#### **14.4 Use of Technology**

- (a) 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 or in any other way permitted by section 248D.
- (b) 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 at two or more places, at the place where the chair of the meeting is located.

#### **14.5 Chairing of Board Meetings**

The Board may elect a Director to chair its meetings and decide the period for which that Director holds that office. If there is no chair of Directors or the chair is not present at the time for which a Board meeting is called or is unwilling to act, the Directors present must elect a Director present to chair the meeting.

#### **14.6 Quorum**

- (a) At a meeting of directors, the number of directors whose presence is necessary to constitute a quorum is such number as is determined by the Board from time to time and, unless so determined, is three.
- (b) The fact that a director is in any way, directly or indirectly, interested in any matter arising for decision at a meeting of directors does not prevent that director being counted in a quorum.

#### **14.7 Majority Decisions**

A resolution of the Board must be passed by a majority of the votes cast by Directors entitled to vote on the resolution. The chair of a Board meeting does not have a second or casting vote. If an equal number of votes are cast for and against a resolution, the matter is decided in the negative.

#### **14.8 Written Resolution**

If all 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 last Director signs.

#### **14.9 Valid Proceedings**

Each resolution passed or thing done by, or with the participation of, a person acting as a Director 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.

### **15. AUDITOR**

- (a) The Company must appoint an Auditor and provide assistance to the Auditor in accordance with the Act.
- (b) The Auditor will not have any affiliation or interest in the Company nor any affiliation with an actual or potential supplier of goods and services, recipient of grant funds or an organisation with competing or conflicting objectives.

### **16. MEMBERSHIP**

#### **16.1 Membership**

The rights and privileges of every Member are personal to that Member and may not be transferred by any act of the Member or by operation of law.



## **16.2 Number of Members**

The number of Members which the Company proposes to be registered is unlimited.

## **16.3 Classes of Members**

The classes of membership of the Company are set out in Schedule 2.

## **16.4 Rights of Members**

The rights of the membership classes set out in Schedule 2.

## **16.5 Application for Membership**

- (a) An applicant, who meets the criteria outlined in rule 16.6 below, shall be eligible for membership of the Company.
- (b) The applicant must execute and deliver to the Company an application for membership in such a form as the Directors from time to time determine.

## **16.6 New Membership**

An application for membership must be:

- (a) in writing (including through the online application process); and
- (b) signed or authorised by the applicant; and
- (c) in the form decided by the Board.

## **16.7 Entrance fee and subscriptions**

The Company may require the payment of membership application fees, annual subscriptions and other membership levies by Members in the amounts and at such times and in such manner as determined by the Board from time to time.

## **16.8 Restriction of the transfer of rights**

The rights and privileges of every Member are personal to each Member and are not transferable by a Member's own act or by operation of law.

## **17. CESSATION OF MEMBERSHIP**

### **17.1 Resignation of membership**

- (a) A Member's membership will cease if the Member gives written notice to the Board terminating its membership with the Company.
- (b) The resignation takes effect at:
  - (i) the time the notice is received by the secretary; or
  - (ii) if a later time is stated in the notice – the later time.

## 17.2 Misconduct of a Member

- (a) If any Member:
- (i) is in breach of the provisions of this Constitution of the Company;
  - (ii) is in breach of any policy relating to the conduct of Members;
  - (iii) the Member's behaviour is causing, has caused, or is likely to cause harm to the Company;
  - (iv) is convicted of an indictable offence; or
  - (v) is guilty of any act or omission which, in the opinion of the Board is unbecoming of a Member, or prejudicial to the interests of the Company including but not limited to breaches of any policies or codes of conduct of the Company in respect of social media misuse,

the Board may expel the Member from the Company and remove the Member's name from the register of members.

- (b) The Board shall not expel a Member unless at least 7 days' notice has been given to the member stating the date, time and place at which the question of expulsion of that member is to be considered by the Board, and the nature of the alleged misconduct.
- (c) The Board must give the Member a full and fair opportunity to show why the membership should not be terminated in accordance with rule 18.
- (d) If after considering all representations made by the Member, the Board decides to terminate the membership, the Secretary must give the Member a written notice of the decision.

## 17.3 Other grounds for cessation of Membership

A Member's membership of the Company shall automatically cease on the date that the Member:

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

## 17.4 Liability for subscription fees and other amounts following cessation of Membership

Notwithstanding that the Member ceases to be a Member of the Company, the Member shall continue to be liable for:

- (a) all annual subscription fees or other amounts owing by the Member to the Company which are due and unpaid as at the date that the Member ceases to be a Member; and

- (b) any amount which the Member is or may become liable to pay to the Company under rule 5.2.

## 18. DISPUTE RESOLUTION AND DISCIPLINARY PROCEDURES

### 18.1 Dispute resolution

- (a) The dispute resolution procedure in this rule applies to disputes (**Disagreements**) under this document between a Member, a Director or the Company and:
  - (i) one or more Directors, or
  - (ii) the Company.
- (b) A Member must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under rule 18 until the disciplinary procedure is completed.
- (c) Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it.
- (d) If those involved in the dispute do not resolve it under this rule 18, they must within 10 days:
  - (i) notify the Directors about the dispute in writing including providing sufficient details of the dispute and any supporting documents;
  - (ii) agree or request that a mediator be appointed; and
  - (iii) attempt in good faith to settle the dispute by mediation.
- (e) The mediator must:
  - (i) be chosen by agreement of those involved, or
  - (ii) where those involved do not agree a person chosen by either the Commissioner of the Australian Charities and Not-for-profits Commission or the president of the law institute or society in the state or territory in which the Company has its registered office.
- (f) A mediator chosen by the directors under this rule 18:
  - (i) may be a member or former member of the Company;
  - (ii) must not have a personal interest in the dispute; and
  - (iii) must not be biased towards or against anyone involved in the dispute.
- (g) When conducting the mediation, the mediator must ensure that those involved are given natural justice:
  - (i) allowing those involved a reasonable chance to be heard;

- (ii) allowing those involved a reasonable chance to review any written statements;
- (iii) not making a decision on the dispute.

## 18.2 Disciplining members

- (a) In accordance with this rule 18.2, the Directors may resolve to warn, suspend or expel a member from the Company if the Directors consider that the Member is the subject of Misconduct (as set out in rule 17.2 of this document).
- (b) At least 14 days before the Directors' meeting at which a resolution under this rule 18.2 will be considered, the secretary must notify the member in writing:
  - (i) that the Directors are considering a resolution to warn, suspend or expel the Member;
  - (ii) that this resolution will be considered at a Directors' meeting and the date of that meeting;
  - (iii) what the member is said to have done or not done;
  - (iv) the nature of the resolution that has been proposed; and
  - (v) that the Member may provide an explanation to the directors, and details of how to do so.
- (c) Before the directors pass any resolution under this rule 18.2, the Member must be given a chance to explain or defend themselves by sending the Directors a written explanation before that directors' meeting.
- (d) After considering any explanation provided by the Member, the Directors may:
  - (i) take no further action;
  - (ii) warn the Member;
  - (iii) suspend the Member's rights as a Member for a period of no more than 12 months;
  - (iv) expel the Member; or
  - (v) refer the decision to an unbiased, independent person on conditions that the Directors consider appropriate (however, the person can only make a decision that the directors could have made under this rule).
- (e) The Directors cannot fine a Member.
- (f) The Secretary must give written notice to the member of the decision under this rule 18.2 as soon as possible.

- (g) For the avoidance of doubt, where a decision has been made to expel a Member under clause 18.2(d)(iv), that Member is prohibited from making an application to reapply for membership of the Company.
- (h) Disciplinary procedures must be completed as soon as reasonably practical.
- (i) There will be no liability for any loss or injury suffered by the Member as a result of any decision made in good faith under this rule 18.2.

## **19. MEETINGS OF MEMBERS**

### **19.1 Calling Meetings of Members**

A meeting of Members:

- (a) may be convened at any time by the Board or a Director; and
- (b) must be convened by the Board when required by section 249D or by order made under section 249G.

### **19.2 Notice of Meetings of Members**

Subject to rule 19.3, at least 21 days' written notice of a meeting of Members must be given individually to each Member entitled to vote at the meeting, to each Director and to the Auditor (if any). The notice of meeting must comply with section 249L and may be given in any manner permitted by section 249J(3).

### **19.3 Short Notice**

Subject to section 249H(4):

- (a) if the Company has elected to convene a meeting of Members and all the Members entitled to attend and vote agree; or
- (b) otherwise, if Members 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.

### **19.4 Postponement or Cancellation**

Subject to section 249D(5), the Board may postpone or cancel a meeting of Members by written notice given individually to each person entitled to be given notice of the meeting.

### **19.5 Fresh Notice**

If a meeting of Members is postponed or adjourned for one month or more, the Company must give a new notice of the resumed meeting.

## **19.6 Technology**

The Company may hold a meeting of Members at two or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate. If a Member requests the use of technology such as phone or video conference in order to allow that member to participate in a meeting of Members, the Company must make reasonable efforts to facilitate that request.

## **19.7 Accidental Omission**

The accidental omission to give notice to, or the non-receipt of notice by, any of those entitled to it does not invalidate any resolution passed at a meeting of Members.

## **20. PROCEEDINGS AT MEETINGS OF MEMBERS**

### **20.1 Member Present at Meeting**

If a Member has appointed a proxy or attorney or (in the case of a Member which is a body corporate) a representative to act at a meeting of Members, that Member is taken to be present at a meeting at which the proxy, attorney or representative is present.

### **20.2 Quorum**

Subject to section 249B, the quorum for a meeting of Members is number of Directors plus 1 Voting Members. Each individual present may only be counted once toward a quorum. If a Member has appointed more than one proxy or representative only one of them may be counted toward a quorum.

### **20.3 Quorum Not Present**

If a quorum is not present within 15 minutes after the time for which a meeting of Members is called:

- (a) if called as a result of a request of Members under section 249D, the meeting is dissolved; and
- (b) in any other case:
  - (i) the meeting is adjourned to the day, time and place that the Board decides and notifies to Members, or if no decision is notified, to the same time on the same day in the next week at the same place; and
  - (ii) if a quorum is not present at the adjourned meeting, the meeting is dissolved.

### **20.4 Chairing Meetings of Members**

If the Board has appointed a Director to chair Board meetings, that Director may also chair meetings of Members. If:

- (a) there is no Director who the Board has appointed to chair Board meetings for the time being; or

- (b) the Director appointed to chair Board meetings is not present at the time for which a meeting of Members is called or is not willing to chair the meeting,

the Voting Members present must elect a Member or Director present to chair the meeting.

## **20.5 Adjournments**

Subject to rule 19.5, the chair of a meeting of Members at which a quorum is present:

- (a) may, with the consent of the meeting; and
- (b) must, if directed by Ordinary Resolution of the meeting,

adjourn it to another time and place.

## **20.6 Business at Adjourned Meetings**

The only business that may be transacted at a meeting resumed after an adjournment is the business left unfinished immediately before the adjournment.

## **21. PROXIES, ATTORNEYS AND REPRESENTATIVES**

### **21.1 Appointment of Proxies**

A Member may appoint not more than two proxies to attend and act for the Member at a meeting of Members. An appointment of proxy must be made by written notice to the Company that complies with section 250A(1) or in any other form and mode that is signed or acknowledged by the Member in a manner satisfactory to the Board. If a Member appoints two proxies and the appointment does not specify the proportion or number of the Member's votes each proxy may exercise, each proxy may exercise half of those votes.

### **21.2 Member's Attorney**

A Member may appoint an attorney to act, or to appoint a proxy to act, at a meeting of Members. If the appointor is an individual, the power of attorney must be signed in the presence of at least 1 witness.

### **21.3 Form of a Proxy**

A proxy must be in the form contained in Schedule 1.

### **21.4 Manner in Which Proxy Is to Vote**

An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument of proxy so provides, the proxy is not entitled to vote on the resolution except as specified in the instrument.

### **21.5 Authority of Proxy**

An instrument appointing a proxy is deemed to confer authority to speak on behalf of the appointor to the extent permitted by law and demand, or join in demanding, a poll.

### **21.6 Deposit of Proxy Forms and Powers of Attorney**

An appointment of a proxy for a meeting of Members or for the taking of a poll is only effective if the following documents are received by the Company at least 48 hours before the meeting or the time appointed for taking the poll (as appropriate):

- (a) the proxy's appointment; and
- (b) if the appointment is signed by the appointor's attorney — the authority under which the appointment was signed or a certified copy of the authority.

### **21.7 Validity of proxies**

A vote in accordance with the terms of an instrument of proxy or of a power of attorney is valid notwithstanding the previous death or unsoundness of mind of the principal or the revocation of the instrument (or of the authority under which the instrument was executed) or of the power, if no limitation in writing of the death, unsoundness of mind or revocation has been received by the Company at the registered office before the commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

## **22. ENTITLEMENT TO VOTE**

### **22.1 Number of Votes**

Subject to any rights or restrictions:

- (a) at meetings of Members, each Member entitled to vote may vote in person or by proxy or attorney or (in the case of a Member which is a body corporate) by its representative;
- (b) on a show of hands every person present who is a Member or a proxy, attorney or representative of a Member has one vote except where a proxy has two or more appointments that specify different ways to vote on a resolution, in which case the proxy cannot vote; and
- (c) on a poll every Member present in person or by proxy, attorney or representative has one vote.

The chair of a meeting of Members does not have a second or casting vote and if an equal number of votes is cast for and against a resolution the matter is decided in the negative.

### **22.2 Voting Restrictions**

If a Member is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, the committee or trustee of the



Member or such other person as properly has the management of the Member's estate may exercise any rights of the Member in relation to a general meeting as if the committee, trustee or other person were the Member.

## **23. HOW VOTING IS CARRIED OUT**

A resolution put to the vote at a meeting of Members must be decided on a show of hands unless a poll is demanded under either before or on the declaration of the result of the vote on a show of hands. Unless a poll is demanded, the chair's declaration of a decision on a show of hands is final.

## **24. RESOLUTIONS WITHOUT MEETINGS**

### **24.1 Written Resolutions**

Subject to section 249A(1), the Company may pass a resolution without a general meeting being called or held if the resolution is set out in a document:

- (a) if the Company has only one Member, signed in the manner set out in section 249B; or
- (b) if the Company has more than one Member, signed in the manner set out in section 249A.

### **24.2 Signature of Resolutions**

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

## **25. SECRETARY**

### **25.1 Requirement for Secretary**

The Company must have at least one Secretary.

### **25.2 Appointment of Secretary**

The Secretary must be appointed by the Board.

### **25.3 Terms and Conditions of Office**

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

### **25.4 Cessation of Secretary's Appointment**

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

- (a) is not permitted by the Act (or an order made under the Act) to be a Secretary of a company;

- (b) becomes disqualified from managing corporations under Part 2D.6 and is not given permission or leave to manage the Company under section 206F or 206G;
- (c) becomes of unsound mind or is physically or mentally incapable of performing the functions of that office;
- (d) resigns by notice in writing to the Company; or
- (e) is removed from office under rule 25.5.

## **25.5 Removal from Office**

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

## **26. FINANCIAL RECORDS & AUDIT**

### **26.1 Minutes**

The Company must keep a minute book of Members' meetings and Board Meetings and subject to rule 26.2, allow access to minute books for the meeting of Members in accordance with the Act.

### **26.2 Inspection of records**

The Board shall decide whether and to what extent, and at what time and places and under what conditions, the accounting records and other documents of the Company or any of them will be open to the inspection of Members (other than those who are also Directors).

### **26.3 Financial records**

The Company must:

- (a) keep written financial records and allow access to such financial records; and
- (b) prepare, disclose, report and lodge financial reports (as required).

## **27. WINDING UP**

- (a) If upon the winding up or dissolution of the Company any property remains, after satisfaction of all its debts and liabilities, that property must not be paid to or distributed among the Members but must be given or transferred to some other institution or institutions determined by the Board at or before the time of dissolution which has similar Objects to the Company and which is approved by the Commissioner of Taxation as a charitable institution for the purposes of any ITAA.
- (b) If the Members do not make the necessary determination under rule 27(a), the Company may apply to the Supreme Court to determine the institution or institutions.

- (c) If the Members do not make the necessary determination(s) under this rule 27, the Company may apply to the Supreme Court to determine the institution or institutions to which the surplus assets shall be transferred.

## **28. AMENDING THE CONSTITUTION**

### **28.1 Special Resolution**

Subject to the Act, the Company may modify or repeal this Constitution or a provision of this Constitution by Special Resolution.

### **28.2 Effective Date**

A Special Resolution modifying or repealing this Constitution takes effect:

- (a) if no later date is specified in the resolution, on the date on which the resolution is passed; or
- (b) on a later date specified in or determined in accordance with the resolution.

## **29. NOTICES**

### **29.1 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 that 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.

### **29.2 Overseas Members**

A Member whose registered address is not in Australia may notify the Company in writing of an address in Australia to which notices may be sent.

### **29.3 When Notice is Given**

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

- (a) if it is delivered personally or sent by fax or electronic message:
  - (i) by 5 pm (local time in the place of receipt) on a business day – on that day;
  - (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; and
- (b) if it is sent by mail:
  - (i) within Australia – on the second business day after posting; or
  - (ii) to a place outside Australia – on the seventh business day after posting.

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

### **29.4 Business Days**

For the purposes of rule 29.3, a business day is a day that is not a Saturday, Sunday or public holiday in the place to which the notice is sent.

### **29.5 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.



# Schedule 1

## Proxy Form

(Rule 21.3)

I/We

*[Insert full name]*

Being a Member of [BQ] Ltd (**Company**) entitled to attend and vote at the meeting, hereby

Appoints

or failing the person so named or, if no person is named, the Chairman of the meeting or the chairman's nominee, to vote in accordance with the following directions or, if no directions have been given, as the proxy sees fit at the general meeting to be held at [INSERT TIME] on [INSERT DATE] at the [INSERT VENUE], [INSERT PLACE] and at any adjournment thereof. If no directions are given, the Chairman will vote in favour of all of the resolutions.

### Voting on Business of the General Meeting

		FOR	AGAINST	ABSTAIN
Resolution 1	[INSERT]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If the Chairman of the meeting is appointed as your proxy, or may be appointed by default and you do not wish to direct your proxy how to vote as your proxy in respect of a resolution, please place a mark in this box

(By marking this box, you acknowledge that the Chairman of the meeting may exercise your proxy even though he/she has an interest in the outcome of the resolution. The Chairman will vote in favour of all of the resolutions if no directions are given).

**YOU MUST EITHER MARK THE BOXES DIRECTING YOUR PROXY HOW TO VOTE OR MARK THE BOX INDICATION THAT YOU DO NOT WISH TO DIRECT YOUR PROXY HOW TO VOTE, OTHERWISE THIS APPOINTMENT OF PROXY FORM WILL BE DISREGARDED.**

If you mark the abstain box for a particular item, you are directing your proxy not to vote on that item on a show of hands or on a poll and that your shares are not to be counted in computing the required majority on a poll. Signed this day of

### INDIVIDUAL

SIGNED by [Name of Party]:

\_\_\_\_\_  
Signature of Member

\_\_\_\_\_  
Name of Member (BLOCK LETTERS)

### COMPANY

SIGNED by [Name of Party]:

\_\_\_\_\_  
Signature of Director

\_\_\_\_\_  
Signature of Director/Company Secretary

\_\_\_\_\_  
Sole Director and Sole Company Secretary

## Schedule 2

### Member classes

CLASS OF MEMBERSHIP	ELIGIBILITY CRITERIA	RIGHTS
Life Members	<ul style="list-style-type: none"> <li>• An individual approved by the Board</li> <li>• Member of the Company (or Bicycle Queensland Inc) for a continuous period of not less than 5 years prior to nomination or becoming a life member</li> </ul>	<ul style="list-style-type: none"> <li>• Right to vote on a decision to appoint Directors</li> <li>• Right to receive notice of meeting and to attend meeting</li> <li>• Voting rights at a meeting of members</li> <li>• Right to participate in discussions at meetings of the Company</li> <li>• Life Members approved by the Board</li> <li>• Right to access company register and members register</li> <li>• Right to access financial information of the Company</li> <li>• No requirement to pay annual fees</li> </ul>
Individual Members	Must be at least 18 years of age	<ul style="list-style-type: none"> <li>• Right to vote on a decision to appoint Directors</li> <li>• Right to participate in discussions at meetings of the Company</li> <li>• Right to receive notice of meetings and to attend meetings</li> <li>• Voting rights at a meeting of members</li> <li>• Right to nominate for positions on the Company's board or committees</li> <li>• Right to access company register and members register</li> <li>• Right to access financial information of the Company</li> <li>• Requirement to pay membership fees as determined by the Board</li> </ul>
Household Member	Must be at least 18 years of age	Has the same rights as two Individual Members.