

Name and Number of Section in New Constitution	Provision in New Constitution	Provision in Memorandum and Articles of Association	Comment	Recommendation
1. Name of Company			No material change	Adopt the updated provision.
2. Type of Company			No material change	Adopt the updated provision.
3. Liability of Company			No material change	Adopt the updated provision.
4. Object			Removal of 2(c) to (cc) in the MoA. These types of provisions are not usually set out in modern Constitutions as much of these rights and abilities spring from the Corporations Act.	The Object of the Company has been updated removing specific jurisdictions and inserting the words “in jurisdictions in which it operates”.
5. Powers			See above.	Adopt the updated provision.
6. Not-for-profit			No material change from concepts in Cl 3 of the MoA	Adopt the updated provision.
7. Amending the Constitution			No material change. The provision relating to resolutions in respect of in respect of the rights of Division and Branches has been incorporated into the Constitution at 7.4	Adopt the updated provision.
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8. Membership and register of Members	The Company must establish and maintain a register of members.		Although a Register is mentioned in the AoA there is no specific responsibility as in Clause 8.2 that the Company must establish and maintain a Register.	Adopt the updated version Requires that the register of Members is kept up to date and available for Member inspection. Terms of the inspection can be provided if the Register is requested for viewing.
9. Who can be a Member			No material change. Clause 6 and 6A in the AoA taking into account the Branch model is included in 9.3 and 9.4 of the Constitution.	Adopt the updated provision. The wording has been updated to remove “he” and “she” replacing these words with “they” and “them”.
10. How to apply to become a Member			No material difference	Adopt the updated provision. There may be a number of different pathways to Membership of IPWEA. It is therefore important to consider the interplay of the different membership categories for voting purposes and ensuring that they are properly maintained and recorded in the Register of Members.
11. Directors decide whether to approve membership			Except for a divisional membership (see 11.2) the Board of the Company makes the decisions in respect of membership. This responsibility can be delegated to a Membership Committee. The provisions in respect of the Membership Committee from the AoA are	Adopt the updated provision.

			incorporated into the provisions 11.6 to 11.11 of the Constitution.	
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12. When a person becomes a Member			No material change. NB commentary and recommendation in respect of Cl 8 of the Constitution.	Adopt the updated provision.
13. Membership fees	Unless the directors decide otherwise, the joining fee and the annual membership fee are as set out on the website from time to time: Become a Member - Institute of Public Works Engineering Australasia .		This amount is usually set at \$0 for new charities and then updated via a Board resolution.	Set the fee schedule on the website as the membership fee level. The website details have been removed and replaced with “on its website as updated from time to time”. Adopt the updated provision.
14. Transfer of Membership	Membership of the Company and the associated rights cannot be transferred or sold.		No direct comparison provision in the AoA. This will assist in maintenance of the Register.	Adopt the provision.
15. When a person stops being a Member			No material change. Constitution drafting is clearer.	Adopt the updated provision.
16. Dispute Resolution	Dispute resolution 16.1 The dispute resolution procedure in this clause applies to disputes (disagreements) under this constitution between a member or director and:		There is no comparable provision in the MoA or AoA.	Adopt the provision.

		(a) one or more members (b) one or more directors, or (c) the Company.			
	16.2	A member must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under clause 17 until the disciplinary procedure is completed.			
	16.3	Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it, or within a timeframe agreed by those involved.			
	16.4	If those involved in the dispute do not resolve it under clause 16.3, they must within 10 days (or within a timeframe agreed by those involved): (a) tell the directors about the dispute in writing (b) agree or request that a mediator be appointed, and (c) attempt in good faith to settle the dispute by mediation.			
	16.5	The mediator must:			

	(a) be chosen by agreement of those involved, or (b) where those involved do not agree: i. for disputes between members, a person chosen by the directors, or ii. for other disputes, a person chosen by the president of the law institute or society in the state or territory in which the Company has its registered office.			
	16.6 A mediator chosen by the directors under clause 16.5(b)(i): (a) may be a member or former member of the Company (b) must not have a personal interest in the dispute, and (c) must not be biased towards or against anyone involved in the dispute.			
	16.7 When conducting the mediation, the mediator must:			

	(a) allow those involved a reasonable chance to be heard (b) allow those involved a reasonable chance to review any written statements (c) ensure that the mediation is conducted in a manner free from bias, and (d) not make a decision on the dispute.			
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17. Disciplining Members	17.1 In accordance with this clause, the directors may resolve to warn, suspend, or expel a member from the Company if the directors consider that: (a) the member has breached this constitution, or (b) the member's behaviour is causing, has caused, or is likely to cause harm to the Company. 17.2 At least 14 days before the directors' meeting at which a resolution under clause 17.1 will be considered, the	If any member shall wilfully refuse to comply with the provisions of the Memorandum or Articles of Association of the Company or shall be guilty of any conduct which in the opinion of the Board or the Membership Committee or its delegate is unbecoming of a member or prejudicial to the interests of the Company, the Board or the Membership Committee or its	The updated provision is seen as current best practice.	Adopt the updated provision.

	secretary must notify the member in writing: (a) that the directors are considering a resolution to warn, suspend or expel the member (b) that this resolution will be considered at a directors' meeting and the date of that meeting (c) what the member is said to have done or not done (d) the nature of the resolution that has been proposed, and (e) that the member may provide an explanation to the directors, and details of how to do so. 17.3 Before the directors pass any resolution under clause 17.1, the member must be given a chance to explain or defend themselves by: (a) sending the directors a written explanation before that directors' meeting, and/or (b) speaking at the meeting. 17.4 After considering any explanation under clause 17.3, the directors may: (a) take no further action	delegate shall have power to expel the member from the Company and erase his/her name from the Register of Members provided that at least one week before the meeting of the Board or the Membership Committee or its delegate at which a resolution of his/her expulsion is passed the member shall have had notice of such meeting and of what is alleged against him/her and of the intended resolution of his/her expulsion and that he/she shall at such meeting and before the passing of such resolution have had an opportunity of giving orally or in writing any explanation or defence he/she may think fit and provided further that any such member may by notice in writing lodged with the Secretary at least twenty four (24) hours before the time for holding the meeting at which the resolution for his/her expulsion is to be considered by the Directors elect to have the question of his/her		
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	(b) warn the member (c) suspend the member's rights as a member for a period of no more than 12 months (d) expel the member (e) 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 clause), or (f) require the matter to be determined at a General Meeting. 17.5 The directors cannot fine a member. 17.6 The secretary must give written notice to the member of the decision under clause 17.4 as soon as possible. 17.7 Disciplinary procedures must be completed as soon as reasonably practical. 17.8 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 clause.	expulsion dealt with by the Company in General Meeting and in that event a General Meeting of the Company shall be called for the purpose and if at the meeting a resolution for the expulsion of the member be passed by a majority of two-thirds of those present and voting (such vote to be taken by ballot) the member shall be expelled and his/her name removed from the Register of Members.		
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18. Calling General Meeting			No material change. Provisions that were incorporated in the AoA in respect of the Branch model have been included in the drafting of the provisions in the constitution.	Adopt the updated provision.
19. Using technology to hold meetings	19.1 The Company may hold a General Meeting at two or more venues using any Virtual Meeting Platform or using a Virtual Meeting Platform only, where the platform gives members a reasonable opportunity to participate, including to hear and be heard. 19.2 Anyone using this platform is taken to be present in person at the meeting. 19.3 If the General Meeting is held using a Virtual Meeting Platform only, then (a) The place of the meeting is taken to be the registered office of the Company, and (b) The time of the meeting is taken to be the time at the	45. The postal vote shall be conducted by the Returning Officer prior to and announced at the first each Annual General Meeting of the Company and the Annual General Meeting of the Company in every year thereafter and the Directors so appointed shall, subject to Clause 48, hold office until the next Annual General Meeting after their appointment when they shall retire but they shall be eligible for re-election. The Postal Vote shall be conducted in the following manner:- (a) All nominations shall be in writing signed by the Nominee and 2 financial members who are members of the relevant Company	The postal vote provisions in the AoA have been removed and the provision for use of technology has been included in the Constitution to modernise the processes.	Adopt the updated provision.

	registered office of the Company. 19.4 If the General Meeting is held at more than one physical venue (whether or not it is also held using a Virtual Meeting Platform), then: (a) The place of the meeting is taken to be the main physical venue of the meeting as set out in the notice of meeting; and (b) The time of the meeting is taken to be the time at the main physical venue of the meeting as set out in the notice of the meeting.	Articles and lodged with the Returning Officer not later than the time fixed by the Returning Officer being not less than three (3) months before the Annual General Meeting. (b) If a Division has more than one Nominee a postal vote of the members of the Company that Division pursuant to Clause 42(c) or (d) shall will be conducted on the First Past the Post method. ... (h) the result of the Postal Vote shall be placed before the Annual General Meeting following the closing of the vote by the Returning Officer.		
Name and Number of Section in New Constitution	Provision in New Constitution	Provision in Memorandum and Articles of Association	Comment	Recommendation
20. Notice of General Meetings			No material difference.	Adopt new provision.

			Modernisation of process with inclusion of Virtual Meeting Platforms.	
21. Quorum at General Meetings			No material difference. The quorum provisions from the AoA have been retained.	Adopt the new provision. The Board may want to change the quorum requirements so that it is easier to establish a quorum at Member meetings like AGM. In that regard the Board might consider reducing the first quorum requirement for 25 Members to 9.
22. Right of non-members to attend meetings			No material difference.	Adopt new provision.
23. Representatives of Members	23.1 An incorporated member may appoint as a representative: (a) one individual to represent the member at meetings and to sign resolutions under clause 29, and (b) the same individual or another individual for the purpose of being appointed or elected as a director. 23.2 The appointment of a representative by a member must: (a) be in writing		No material difference. More specificity in respect of appointment and voting rights of representatives of a Member.	Adopt new provision.

	(b) include the name of the representative (c) be signed on behalf of the member, and (d) be given to the Company or, for representation at a meeting, be given to the Chairperson before the meeting starts. 23.3 A representative has all the rights of a member relevant to the purposes of the appointment as a representative. 23.4 The appointment may be standing.			
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24. Chairperson for General Meetings			The concept of President and Vice President have been retained in Cl 38.	Adopt the updated provision.
25. Role of the Chairperson	25.3 The Chairperson has a casting vote.	28. In the case of an equality of votes, whether on a show of hands or on a poll, the Chairperson of the meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a second or casting vote.	The AoA gives the President / Chairperson a casting vote. Including a casting vote does not of itself make the updated constitution out of step with modern governance practices.	25.3 has been updated so that the Chairperson has a casting vote. Adopt the updated provision.

		59. Subject to these Articles questions arising at any meeting of the Directors shall be decided by a majority of votes and determination by a majority of the Directors shall for all purposes be deemed a determination of the Directors. In the case of an equality of votes the Chairperson of the meeting shall have a second or casting vote. 66. A sub-committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in the case of an equality of votes the Chairperson shall have a second or casting vote.		
Name and Number of Section in New Constitution	Provision in New Constitution	Provision in Memorandum and Articles of Association	Comment	Recommendation
26. Adjournment of meetings			No material change.	Adopt the updated provision.

27. Members' resolutions and statements			Provision modernised with more specificity in respect of conditions for statement. No material change.	Adopt the updated provision.
28. Company must give notice of proposed resolution or distribute statement			Provision modernised with more specificity in respect of conditions for statement. No material change.	Adopt the updated provision.
29. Resolutions without meetings			Provision modernised. No material change.	Adopt the updated provision.
30. How many votes a Member has			No material change.	Adopt the updated provision.
31. Challenge to Member's right to vote			Provision modernised. No material change.	Adopt the updated provision.
32. How voting is carried out			Provision modernised. No material change.	Adopt the updated provision.
33. When and how a vote in writing must be held			Provision modernised. The provision requires the Members Present who request the vote in writing to hold at least 5% of the votes that may be passed on the specific resolution. It also gives the President the power to request that the vote be in writing.	Adopt the updated provision.

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34. Appointment by proxy			Provision modernised. No material change.	Adopt the updated provision.
35. Voting by proxy			Provision modernised. No material change.	Adopt the updated provision.
36. Number of directors			This provision is in keeping with the MoA and AoA. Three Directors (like NED's) can be elected by the Board so that a Board of the Company can be formed without the inclusion of Divisional or Branch nominated Directors if an occasion arose that none were appointed by a Division or Branch.	Adopt the updated provision.
37. Election and appointment of directors			Provision modernised. No material change.	Adopt the updated provision.
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38. Election of Chairperson	39. Election of Chairperson 39.1 The directors must elect a director as the Company's Chairperson . 39.2 The Chairperson will be called the President. 39.3 The Directors may also elect a Vice-President. The Vice President will act as in the capacity of Chairperson if at any meeting the President is not present.		In Australian corporations there is no reference to President of a Company. However, I have kept the terminology of the AoA and the provisions in respect of the Vice President. For all intents and purposes the President will be the Chairperson of the Board and is elected as such by the Directors.	Adopt the updated provision.
40. Term of office	40.1 Other than a director appointed under clause 37.5, a director's term of office will be for a minimum of three years and starts at the end of the General Meeting at which they are elected and ends at the end of the General Meeting at which they retire.		The Constitution hard wires the minimum appoint term. Modern corporate governance does not usually have a minimum term and the maximum term considered appropriate is 9 years.	Adopt the updated provision.
41. When a director stops being a director	41.1 A director stops being a director if they: (a) give written notice of resignation as a director to the Company; (b) die;		No material change other than the inclusion of a provision that sets out that a director ceases to be a Director of the Company if the miss 3 consecutive meetings without approval of the Board.	Adopt the updated provision.

	(c) are removed as a director by a resolution of the members; (d) stop being a member of the Company; (e) are a representative of a member, and that member stops being a member; (f) are a representative of a member, and the member notifies the Company that the representative is no longer a representative (g) are absent for 3 consecutive directors' meetings without approval from the directors; or (h) become ineligible to be a director of the Company under the Corporations Act or the Act.			
Name and Number of Section in New Constitution	Provision in New Constitution	Provision in Memorandum and Articles of Association	Comment	Recommendation
42. Powers of directors			Provision modernised. No material change.	Adopt the updated provision.

43. Delegation of directors' powers			Provision modernised. No material change.	Adopt the updated provision.
44. Payments to directors			Provision modernised. No material change.	Adopt the updated provision.
45. Execution of Documents			Provision modernised. No material change.	Adopt the updated provision.
46. Validity			Provision modernised. No material change.	Adopt the updated provision.
47. Duties of directors			Provision modernised. No material change.	Adopt the updated provision.
48. Conflicts of interest			Provision modernised. No material change.	Adopt the updated provision.
49. When directors meet			Provision modernised. No material change.	Adopt the updated provision.
50. Calling directors' meetings			Provision modernised. No material change.	Adopt the updated provision.
51. Chairperson for directors' meetings			Provision modernised. No material change.	Adopt the updated provision.
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52. Quorum at directors' meetings			Provision modernised. No material change.	Adopt the updated provision.

53. Using technology to hold directors' meetings	53.1 The directors may hold their meetings by using any Virtual Meeting Platform that is agreed to by all of the directors. 53.2 The directors' agreement may be a standing (ongoing) one. 53.3 A director may only withdraw their consent within a reasonable period before the meeting.		Provision modernised. Ability to use technology to hold meetings.	Adopt the updated provision.
54. Passing directors' resolutions			Provision modernised. No material change.	Adopt the updated provision.
55. Resolutions of directors without a meeting			Provision modernised to allow responses to circular resolutions by email. No material change.	Adopt the updated provision.
56. State Divisions			Provisions from the AoA have been lifted and inserted here.	Adopt the provision.
57. Special Divisions			Provisions from the AoA have been lifted and inserted here.	Adopt the provision.
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58. Branches			Provisions from the AoA have been lifted and inserted here.	Adopt the provision.
59. Appointment and role of secretary			Provision modernised. No material change.	Adopt the updated provision.

60. Minutes and records			Provision modernised. No material change.	Adopt the updated provision.
61. Financial and related records			Provision modernised. No material change.	Adopt the updated provision.
62. What is notice			Provision modernised incorporating definition of notice to the Company. No material change.	Adopt the updated provision.
63. Notice to the Company			Provision modernised. No material change.	Adopt the updated provision.
64. Notice to Members			Provision modernised. No material change.	Adopt the updated provision.
65. When notice is taken to be given			Provision modernised. No material change.	Adopt the updated provision.
66. Company's financial year			Provision modernised. No material change.	Adopt the updated provision.
67. Indemnity			Provision modernised. No material change.	Adopt the updated provision.
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68. Insurance	To the extent permitted by law (including the Corporations Act), and if the directors consider it appropriate, the Company may pay or agree to pay a premium for a		Provision modernised. No material change.	Adopt the updated provision.

	contract insuring a person who is or has been an officer of the Company against any liability incurred by the person as an officer of the Company.			
69. Directors' access to documents	69.1 A director has a right of access to the financial records of the Company at all reasonable times. 69.2 The directors may resolve to give a director or former director access to other records, including documents provided for or available to the directors.		No previous counterpart.	Adopt the updated provision.
70. Winding up voluntarily			Provision modernised. No material change.	Adopt the updated provision.
71. Surplus Assets not to be distributed to Members			Provision modernised. No material change.	Adopt the updated provision.
Name and Number of Section in New Constitution	Provision in New Constitution	Provision in Memorandum and Articles of Association	Comment	Recommendation
72. Distribution of Surplus Assets			Provision modernised. No material change.	Adopt the updated provision.
73. Definitions			Definitions updated to take account of modernisation. Concepts that have been incorporated from the MoA	Adopt the updated provision.

			and AoA have been brought across to these definitions.	