

## **Explanatory Memorandum to support Notice of Special General Meeting**

The Committee for Brisbane is seeking members' support to transition from an Incorporated Association to a Company Limited by Guarantee (CLG). This proposed change reflects the organisation's growth, the scale of its activities and the increasingly important role it plays across the Brisbane city-region. As we take on broader responsibilities and engage more deeply with industry, government and the community, it is important that our governance structure keeps pace with our ambitions and the expectations of our members.

### **Key issues**

#### **Member rights**

Any member of the Association is eligible to become a member of the CLG on (or following) its registration with ASIC (**Member**).

On registration of the CLG with ASIC, any member of the Association who has given written consent to become a Member will, unless they earlier resign, automatically become a Member.

The current classes of membership are:

- corporate leaders;
- corporate members;
- enterprise members;
- associate members;
- student members;
- affiliates; and
- life members.

Under the Proposed Constitution:

- corporate leaders, corporate members, enterprise members, associate members, student members and affiliates of the Association will become **Ordinary Members** of the CLG; and
- life members of the Association will become **Life Members** of the CLG.

Ordinary Members will be required to pay Membership Fees, which will entitle them to:

- attend any general meeting of the CLG;
- vote at any general meeting of the CLG;

- nominate a candidate for election as a director of the CLG (**Director**); and
- if an individual, be a Director.

Any new Ordinary Members after the CLG is registered with ASIC will need to pay an admission fee (as is current practice).

Life Members will have the same rights as Ordinary Members but will not be required to pay Membership Fees.

### **Member obligations**

Your obligations as a Member will change, but not in a manner that the management committee of the Association (**Management Committee**) considers material.

As a Member, you may have an obligation to pay the guarantee amount of \$1. There is no guarantee amount currently in place for the Association. However, you will only need to pay up to the guarantee amount if the CLG is wound up while you are a Member (or within one year of you ceasing to be a Member) and the CLG is unable to cover the costs of winding up or the costs of any debts and liabilities it incurred.

Membership Fees will be set by the board of the CLG (**Board**) (as they are now by the Management Committee) and fall due on 1 July each year. Only Ordinary Members will be required to pay Membership Fees.

If you are an Ordinary Member and do not pay your Membership Fees due by that date, your rights will be suspended until you do pay. However, if you still have not paid your Membership Fees due by 30 September of that year, on 1 October your membership will automatically terminate.

You will be entitled to re-apply for ordinary membership if you wish to do so.

### **Governance structure**

Currently, the Association must have at least a president, two vice presidents, a secretary and a treasurer on the Management Committee and up to nine other Management Committee members. The CLBG must have not less than three not but more than nine Directors on the Board.

There will no longer be a president, vice president and treasurer. All members of the Board will be Directors and have shared duties and obligations. The Directors will elect from amongst themselves a chair of the Board annually. They will also appoint the secretary.

Importantly, under the Proposed Constitution, after the first AGM of the CLG there will be:

- not more than seven Directors elected under rule 10.4 (**Elected Directors**); and
- not more than two Directors appointed by the Board under rule 10.5 (**Appointed Directors**).

This will allow the elected Directors to appoint people who have skills and experience that compliments and rounds-out the skills and experience of the rest of the Board at the time.

### **First Directors**

Under the Proposed Constitution, to facilitate transition to the new governance structure, on registration of the CLG, all of the current Management Committee members will be Directors named in the application for registration of the CLG with ASIC (**First Directors**).

All of the First Directors must retire at the first annual general meeting (**AGM**) of the CLG.

The Members will then have the opportunity to elect the Elected Directors at that first AGM.

### **First AGM and onwards**

The first AGM of the CLBG will be held later this year, as it has always been, in November.

At that AGM, the Members will then have the opportunity to elect the Elected Directors at that first AGM.

Members that are bodies corporate will be able to nominate an employee of theirs for the election, but can only have one employee on the Board at any one time. Individual members can also be nominated (and may nominate themselves).

Elected Directors must retire no later than at the second AGM following their election, and may if eligible, be re-elected or appointed by the board as Appointed Directors.

Appointed Directors can be re-appointed by the Board after their term ends, or if eligible, they may be nominated for election as Elected Directors.

No person may be an Elected Director for more than a period of six AGMs (as is the case now). This includes any time served as a Management Committee member of the Association.

In addition, Appointed Directors cannot serve for more than a period of six years in total.

Any person can be both an Elected Director and an Appointed Director within those maximum terms for each office – this allows for a period of service in total of approximately 12 years (give or take a bit based on dates of AGMs).

### **Legal status**

On registration with ASIC, the CLG will continue to be the same legal entity as the Association. It will merely be a different type of entity.

Importantly, this means that there will be no effect on any employees, contracts or other arrangements of the Association at present, because of the conversion to a CLG.

The name Committee for Brisbane will remain unaffected and will continue to be used.

### Proposed resolution

To enable the transfer from an Association to a CLG, members need to vote in support of the resolution put to them at the Special General Meeting, to:

- (a) approve the proposal to transfer the incorporation of Committee for Brisbane from an association under the *Associations Incorporation Act 1981 (Qld)* (**AI Act**) to a company limited by guarantee (**CLBG**) incorporated under the *Corporations Act 2001 (Cth)* (**Corporations Act**);
- (b) approve the proposed name for the company limited by guarantee as 'Committee for Brisbane Ltd' to be registered under the Corporations Act;
- (c) approve the proposed constitution for the company limited by guarantee as made available to all members prior to, and tabled at, the special general meeting of the members;
- (d) approve and authorise the President of the management committee, and any two other members of the management committee, to make an application under Part 14, Division 1 of the AI Act to transfer the incorporation of Committee for Brisbane to a company limited by guarantee, under Part 5B.1 of the Corporations Act; and
- (e) approve and authorise any members of the management committee to sign all documents and do all other things necessary to give effect to the applications and related activities involving the transfer of incorporation contemplated in this special resolution.

All of the approvals and authorisations outlined in these five resolutions are required to enable to transfer to take place.

The Management Committee unanimously supports the resolution.

Further, a **comparison between the Current Constitution and the Proposed Constitution** is provided (**below**) to assist members in understanding the differences between the current Association and proposed CLG.

	<b>Current Constitution (Incorporated Association)</b>	<b>Draft Constitution (Company Limited by Guarantee)</b>
<b>Purpose / Objects</b>	The objects of the Association are to be an independent organisation that is committed to shaping greater Brisbane as the world's most liveable place.	The Company is established for the purpose of bringing together organisations, industry bodies, community groups and government to shape the liveability of the Brisbane city-region.

<b>Membership classes</b>	Multiple categories: Corporate Leaders, Corporate Members, Enterprise Members, Associate Members, Student Members, Affiliates and Life Members.	Two categories only: Ordinary Members and Life Members.
<b>Who can be a member</b>	Individuals and organisations, with rights varying between categories.	Any individual or organisation approved by the Board. Ordinary and Life Members have full voting rights if fees are paid.
<b>Voting at general meetings</b>	By show of hands or secret ballot.	By show of hands or on a poll. Stronger rules for proxies, Member Representatives and direct voting, including electronic participation.
<b>Voting rights</b>	Only certain categories can vote. One vote per eligible member. Proxy voting allowed.	All members have one vote. Ordinary Members must be financial to have full voting rights.
<b>Board / Director composition</b>	Management Committee composition tied to membership categories, with set numbers for Corporate Leaders, Corporate Members and Enterprise Members. Includes standard office-bearer roles.	Board size between three and nine Directors. Up to seven elected Directors and up to two appointed Directors selected for specific skills and experience. Chair elected annually by the Board.
<b>Election and appointment of leaders</b>	Members elect the Management Committee at the AGM. Nominations are tied to membership categories.	Members elect Directors at the AGM. The Board may also appoint Directors for their skills through a defined appointment process. Body corporate Members can only have one employee on the Board at any one time and that Director must resign if they cease employment with that Member. The vacancy can be filled by the Board until the next AGM when all Members have the right to elect a Director to that office.
<b>Terms of office</b>	Committee members retire every two years and may renominate. Maximum of four consecutive years in any one position.	Elected Directors retire at the second AGM after election. Maximum of six AGMs' service as an Elected Director and six years as an Appointed Director.

		Any term of service in the Association carries over to the CLG.
<b>Director eligibility</b>	Must be a Financial Member or nominated representative. Some requirements tied to Queensland residency.	Directors must be individuals supportive of the organisation's objects and not disqualified under corporations law. Appointed Directors do not need to be members. Allows for appointments in accordance with a skills matrix approved by the Board.
<b>Director duties</b>	Limited detail on governance duties. Committee has general authority to interpret the constitution.	Detailed and modern governance requirements, including duties under corporations law, conflict of interest rules, disclosure standards, indemnities and insurance provisions. Directors must have a director ID and be registered with the ABR.
<b>Board powers</b>	General control of the Association's affairs, with ability to make by-laws and ratify actions of the Secretary or Executive Committee.	Full control of the company's affairs, with explicit powers to establish Working Groups and Advisory Groups, and detailed rules for delegations and decision-making.
<b>Committees / working groups</b>	Advisory Council, Executive Committee and Sub-committees focused on strategic advice.	Working Groups (with delegated powers) and Advisory Groups (no decision-making authority), each requiring terms of reference.
<b>Meetings (AGM / general meetings)</b>	AGM required. Meeting notices generally 14 days. Quorum based on size of the Management Committee.	AGM required annually. 21 days' notice standard. Quorum set at five members. Comprehensive rules for virtual participation and meeting conduct. Members have the right to call a general meeting and put resolutions to a general meeting.
<b>Member representatives</b>	Some corporate members may nominate representatives, but rules are not extensive.	Every organisational member must nominate a Member Representative with full authority to act for the member. Clear rules for replacement and notification.
<b>Financial reporting</b>	Annual audited financials and reporting requirements consistent with state legislation.	Comprehensive financial reporting and auditing obligations under national

		corporations law. Stronger record-keeping, reporting and access requirements.
<b>Non-profit provisions</b>	Income and property must be used for the organisation's purposes. No profit distribution except for reasonable payments for goods or services.	Stronger and more detailed non-profit provisions. Limited circumstances for payments to members or Directors.
<b>Dissolution / winding up</b>	Dissolution occurs if membership drops below three or by special vote. Surplus assets must go to a similar organisation.	Members' liability limited to \$1. Surplus assets must go to an organisation with similar objects and non-distribution requirements.
<b>Termination of membership</b>	Before the Management Committee terminates a Member's membership, the Member must be given a full and fair opportunity to show why the membership should not be terminated.	No right to contest termination.
<b>Fees</b>	No admission fee. Members can be terminated immediately for failure to pay membership fees when due.	Admission fee to ordinary membership. Members have a 3 month grace period to pay membership fees in arrears, during which time their membership rights are suspended. Termination is automatic after that period.
<b>Auditor</b>	Appointed annually.	Standing appointment. There are strict retirement and replacement rules under corporations law.