

HEREFORDS AUSTRALIA LIMITED

This document is prepared for the sole purpose of providing the members of Herefords Australia Limited with an explanation of the differences between the content of the current constitution and proposed draft new constitution. The explanation is provided not in specific word by word comparison format but in generalised explanation in table form showing the current clause number and title and the number and title in the proposed draft new constitution and changes. Where it has been considered inappropriate or not necessary to include a provision from the current constitution or there is substantial change in the nature of the provision an explanation is provided.

The draft new constitution has been prepared in a format and in substance to bring Herefords Australia Limited in line with contemporary governance practices and to provide flexibility to the board and chief executive officer. The substance of the wording used by Herefords Australia Limited in the draft new constitution is similar to other contemporary companies.

It has been considered more appropriate to prepare a new fresh constitution rather than amend the current document.

Item No	Current constitution clause	Title	Comment/explanation	Draft Proposed Constitution clause	Title	Comment/explanation as comparison to current constitution
1	1	Company Name		1	Name of company	Similar in substance
2	2	Nature of the Company		2	Type of company	Similar in substance
3	3	Replaceable rules	Stating that the replaceable rules of the Corporations Act do not apply	3 and 4	Limited Liability of members	This clause describes the liability of each member. It is dealt with in similar terms in clause 8 of the current constitution
4	4	Definitions and Interpretation		70 and 72	Definitions and Interpretation	These areas provide an explanation of terminology in the document in accordance with usual terms in

						constitutions
5	5	Objects and Powers	Changed in draft new constitution to "purpose".	5	Purpose	The Corporations Act does not require a company to have objects. In contemporary practice it is considered best to have a general objects or purpose clause in order to provide flexibility to the board to respond to current and emerging business needs. The purpose has been designed to be specific but not prescriptive as to the activities which the company can engage in.
6	6	Separate objects	Deleted	Not provided		
7	7	No distribution to members	The intent of this clause is replicated	8	Not for Profit	This clause prohibits distribution to members
8				7	Powers	Powers are addressed in clause 5 of the current constitution but are addressed in clause 7 of the proposed new constitution. The powers are wide but provide only as relevant to the purpose of the company and reflect current legal requirements but are not prescriptive.
9	8	Limited Liability	This provides the liability of members in the event of winding up	As above clause 3 & 4	Guarantee	The substance is the same as per clause 8 of current constitution
10	9	Classes of membership	This has been deleted. It is considered in the best interest of the company that with respect to voting each member be treated equally and			

			that sub classes be dealt with in the regulations to provide flexibility as and when needed to respond to differing circumstances			
11				9	Amending the constitution	Provides the mechanism to amend the constitution
11	10	Admission to membership	Changed from a generalised admission procedure with discretion given to the board	11, 12, 13, 14	Membership How to become a member Directors decide whether to approve membership When a person becomes a member	The main change is that from the date of the new constitution only individuals can apply to be members. Where companies and individuals are members as at the date of the new constitution they remain members. As in the current constitution membership is not transferable. The reason is to limit membership to individuals to avoid entities passing membership on an intergenerational basis which contributes to financial inequity and reduces the financial viability of the company. The further provisions provide more governance around the administrative processes of admission
12			There is no provision to the extent of the proposal	10	Register of members	This is new and provides for a contemporary governance structure regarding member details which must be maintained by the company secretary
12	11	Termination of membership	The provisions are very broad and dispute provisions are included here	15	When a person stops being a	This has been condensed to usual death, solvency, resignation, expulsion

					member	or lack of response
13	12	Membership fees	This has been deleted			This will be dealt with as an administrative issue in the regulations to provide flexibility and administrative ease
14				16 & 17	Dispute resolution Disciplining members	These clauses provide for contemporary measures to ensure proper behaviour and proper process
14	13	Variation of rights of members	Deleted			To be dealt with in regulations
15	14	Annual General Meeting	The company must hold its AGM within 5 months after the end of its financial year	20	Annual general meeting (AGM)	AGM to be held once in every calendar year. This clause introduces the minimum areas which the AGM must deal with and provides governance for the manner in which the meeting is to be held
16	15	Other general meetings	Deleted as the law allows for this			
17	16	Notice of Annual General Meeting		21	Notice of AGM	This clause provides a more contemporary administrative regime whilst remaining compliant with the law
18	15	Other General Meetings		18	General meetings called by directors	This clause provides a more comprehensive clause for directors to call a general meeting and provides the procedure to be followed should members entitled to call a general

						meeting do so	
19	17	Quorum	Currently 10 members are required to form a quorum	22	Quorum	It is proposed that the number be increased to 50 members in order to ensure a more representative membership be present. There is provision for specific procedures should a quorum not be present	
20			Not provided in current constitution	23	Auditors right to attend meetings	Right of auditor to be present at general meetings is considered good governance so that members are made aware of financial issues if necessary	This is considered financial issue company
21	26	Proxies, attorneys and representatives		24, 36 and 37	Representatives of members	More specific and contemporary provisions have been made in this area	
22	18	Chair of General Meetings	Chair of the board is entitled to chair all meetings. Mechanism provided if chair is not present	40	Election of Chairperson	Directors to elect chairperson	
23	19	Conduct of meetings	The clause provides that the chair may regulate the conduct of the general meeting in any way consistent with the constitution and the law.	25	Using technology to hold meetings	This clause provides current best practice to enable contemporary, convenient and efficient meetings to be held using available technological methods as deemed appropriate by the board.	
				26	Chairperson for general meetings	Similar to current clause 19	
				27	Role of the Chair	Describes the duties of the chair when conducting meetings	
24	20	Adjournment	Chair has discretion to adjourn	28	Adjournment	This clause is more specific than the	

			meeting to a date no later than 60 days from the date set for the current meeting. Notice provisions are required.			current clause namely: 1.1 If a quorum is present, a general meeting must be adjourned if a majority of members present direct the chairperson to adjourn it. 1.2 Only unfinished business may be dealt with at a meeting resumed after an adjournment.
25	22, 23, 24, 25	Voting procedures	The clauses for voting, polls, voting rights and challenging a right to vote have been updated	29, 30, 31	Members resolutions and statements	Provisions have been introduced to provide more extensive procedures to provide a more comprehensive and contemporary structure to members rights
25	21	Decisions at General Meetings	States that decision(s) must be made through passing a resolution. Ordinary resolutions required more than 50% of the votes cast in favour of the resolution and special resolutions require 75% or more of the votes cast in favour of the resolution	34.1 and 34.2	How voting is carried out	The mechanisms are more expansive to provide greater governance
26	26	Proxies, attorneys and representatives of members	Dealt with at item 21.			

27	27	Number of Directors	Currently the board is comprised of 12 elected directors	38	Number of Directors	<p>The proposal is to have at least 3 and no more than 8 directors 2 of whom must be appointed directors. Therefore the maximum number of elected directors would be 6.</p> <p>The reduction is considered in line with contemporary good governance practice.</p> <p>To be consistent with good governance practice independent directors provide diversity, perspective, experience and complementary skills to the board.</p>
28	27, 28, 29			39	Election and appointment of directors	<p>This clause provides a contemporary mechanism for election and appointment of directors. Specifically there are criteria requirements for appointed directors and individuals may not nominate themselves for directorship.</p> <p>Directors must provide written consent to be a director.</p> <p>Clause 39.7 introduces that all nominated directors (elected or appointed) agree to comply with the Board Charter and Code of Conduct which has been adopted by the current board.</p> <p>These documents provide good</p>

						governance practices including establishing and maintaining registers for conflict of interest, material personal interest and related party transactions which all directors must comply with.
29	30	Term of office	The clause requires that the board rotate (one third) annually with directors with the longest tenure retiring first	41	Term of office	At each AGM at least one third of elected directors must retire with longest serving retiring first and if even then by lot to determine who shall retire. An appointed director shall not serve more than 6 years. Directors who serve more than 9 years must be elected by special resolution for further terms.
30	31	Vacation of office	A director ceases being a director for disqualification, resignation, absence over a 6 month period, unsoundness of mind or insolvency.	42	When a director stops being a director	In addition to the reasons stated the following apply: <ul style="list-style-type: none"> • Breach of the Board Charter and/or Code of Conduct • Stops being a member of the company • Is absent for 3 directors meetings • If a members meeting resolution removes the director
32	32	Alternate Directors and casual vacancies	Director may appoint alternate for a specific period of time and there are mechanisms to manage the appointment.			

33	33	Directors remuneration	Directors are not entitled to be paid a fee for directorship	45	Payments to directors	This clause provides that members may resolve to pay directors fees. However this is not compulsory. It provides flexibility if the issue arises.
34	34	Circulating resolutions	Directors may make decisions through a circular resolution whereby all directors sign a document which is circulated to them.	55	Circular resolution of directors	This clause provides for more contemporary procedures for circular resolutions.
35	35, 36, 37	Board meetings	A quorum is one half of elected board members.	52	Quorum	Unless determined otherwise a quorum is more than 50% of directors. Most provisions are similar.
36	41	Board of Directors Powers	The statement of powers is basic.	43	Powers	The clause is more specific about the duties and responsibilities of the board especially with reference for financial management, no right to remove auditor, delegations and regulations.
37			This is not specifically provided for in detail	47 & 48	Duties of Directors Conflict of Interest	These clauses highlight the specific duties of the board of directors and the need to avoid conflict of interest and mechanism to deal with conflict of interest.
38	43	Company Secretary		56	Company Secretary	This clause provides what the role and duties are in a more specific manner.
39	44	Company seal		46	Execution of documents	This clause states how documents may be executed
40			Not referenced	57	Minutes and Records	This clause provides a comprehensive specification for how minutes and records are to be kept and maintained
41	46	Financial records	This clause is not comprehensive	58	Financial records	This clause provides a more comprehensive requirement for good

						governance
47	47	Winding up	This clause states how surplus funds are to be distributed upon winding up which includes non-distribution to member. Members must decide where funds should be directed.	68, 69	Winding up an surplus assets	Similar provisions
48				61, 62, 63	Notice	These clause provide comprehensive requirements when notice is to be provided by the company or members
49			Not provided	65, 66, 67	Indemnity, insurance and access to documents	This clause provides for indemnity and insurance to directors and officers which is not currently appropriately addressed together with provisions for directors to access documents (in accordance with the law) in the future.