

Register of Changes to DTC Constitution: November 2019

Clause	Original	Proposed Amendment
3	<p>Australian companies often lack size, broad based expertise and other attributes beneficial in formulating competitive tenders for and expanding the market for their services in defence related projects. It is perceived that these deficiencies may be addressed by Australian companies adopting more efficient, co-operative and effective business practices. DTC is intended to facilitate this process by:</p> <ul style="list-style-type: none"> • Establishment of general services of benefit to all Members. For example, a database of Members capability to promote rapid and effective formation of tendering teams. These services are to be made available to all Members and third parties when considered to be in the interests of Members; and • Provision of specific services to facilitate with respect to particular opportunities, on a user-pays basis where appropriate. <p>The intention is that Members will benefit from the general services as a benefit of Membership and from the availability of DTC resources to assist with respect to specific opportunities on a user-pays basis where appropriate</p>	<p>Australian companies predominantly those with industrial, manufacturing and engineering resources within the defence industry often lack size, broad based expertise and other attributes beneficial in formulating competitive tenders for and expanding the market for their services in defence related projects. It is perceived that these deficiencies may be addressed by Australian companies adopting more efficient, co-operative and effective business practices. DTC is intended to facilitate this process by:</p> <ul style="list-style-type: none"> • Establishment of general services to all Members and defence industry participants. For example, a database of defence industry and Members capability to promote rapid and effective formation of tendering teams. These services are to be made available to all Members and defence industry participants when considered to be in the interests of Members and defence industry; and • Provision of specific services to facilitate with respect to particular opportunities.
4.1.7	<p>The principal objects of DTC are to:</p> <p>4.1.1 Promote collaborative commercial activities between the Members and between DTC Members and third parties.</p> <p>4.1.2 Establish and operate a capability inventory database for the defence industry and defence support industry.</p>	<p>The principal purpose of DTC is to promote and develop Australian businesses with an interest in the defence industry, predominantly those businesses with industrial, manufacturing, engineering and professional resources, with key objects to:</p> <p>4.1.1 promote collaborative activities between the defence industry participants;</p>

	<p>4.1.3 Act as a facilitator for collaborative bidding by DTC Members in targeted defence projects.</p> <p>4.1.4 Facilitate and contribute to the growth of the defence and defence support industries in Australia.</p> <p>4.1.5 Assist and support DTC Members in their commercial dealings with each other and third parties.</p> <p>4.1.6 Establish a voluntary code of conduct for Members.</p> <p>4.1.7 Represent the membership in the ongoing Defence and industry policy formulation process through all available means.</p>	<p>4.1.2 act as a facilitator for collaborative bidding by defence industry participants in targeted defence projects;</p> <p>4.1.3 facilitate and contribute to the growth of the defence industry in Australia;</p> <p>4.1.4 assist and support defence industry participants in their interactions;</p> <p>4.1.5 advocate on behalf of defence industry participants in defence policy formulation process; and</p> <p>4.1.6 educate businesses to assist them to participate in the defence industry.</p>
5	Proposed change (right) added to end of Clause 5 Powers	As a not for profit organisation, DTC must not distribute any surplus, income or assets directly or indirectly to its members
6.3.2	Each application shall be submitted for the approval of the Board and if approved, the applicant shall become a Member upon payment of the appropriate subscription and the name of the Member shall be recorded by the Secretary of DTC in a Register of Members kept for that purpose.	Each application shall be submitted for the approval of the CEO and if approved, the applicant shall become a Member upon payment of the appropriate subscription fee. The name of the Member will be recorded in a Register of Members kept for that purpose.
6.5	<p>6.6.3 Failure to Pay Any Member whose subscription is outstanding for more than three months after the due date for payment shall cease to be a Member, provided always that the Board may reinstate such a person's Membership on such terms as it thinks fit.</p> <p>6.7 Member Resignation A Member may resign from Membership of DTC by giving written notice thereof to the Secretary or the Public Officer of DTC. Any Member so resigning shall be liable for any outstanding subscriptions which shall be recovered as a debt due to DTC.</p>	<p>6.5 Member Resignation and Failure to Pay A Member may resign from Membership of DTC by giving written notice thereof to the Secretary or the Public Officer of DTC by the membership renewal anniversary date. In the event any Member so resigns after the anniversary date, then the member shall be liable in full for any outstanding subscriptions which shall be recovered as a debt due to DTC.</p>

		Any outstanding subscriptions at the time of a winding up event under Clauses 15 and 16 of this constitution are also payable in full and shall be recovered as a debt due to DTC.
7.4	7.4 First Board The first Board of DTC shall be appointed from the promoters of DTC, or be comprised of such persons as hold office prior to incorporation. The first Board shall hold office until the first annual general meeting after incorporation at which time the Members of the Board shall be re-elected according to the eligibility and election requirements of each class of Membership.	Clause 7.5 (right) to be deleted from the Constitution
7.10.5	Proposed change (right) added to end of Clause 7.10 Sub-Committees (formally 7.11)	7.10.5 Sub-Committee Quorum Either three (3) Directors, or two (2) Directors and the DTC CEO present personally, attending via the use of technology approved by the Board (including telephone or video conferencing) or by proxy shall constitute a quorum at any Board established sub-committee meeting.
15	WINDING UP DTC may be wound up in the manner provided for in the Act.	WINDING UP 15.1 Subject to the Act, DTC may be wound up voluntarily by special resolution. The body to which the surplus assets are to be given must be decided by special resolution.
16	APPLICATION OF SURPLUS ASSETS If after the winding up of DTC there remains “surplus assets” as defined in the Act, such surplus assets shall be appropriated in accordance with this Constitution. The surplus assets shall be distributed to an institution or institutions having objects similar to the objects of DTC.	APPLICATION OF SURPLUS ASSETS 16.1 The surplus assets must be given to a body that has similar objects to DTC and which is not carried on for the profit or gain of its individual members, but must not be distributed to any members or former members of DTC.
17.4	This clause 17.4 applies to the first Board to be appointed in the annual general meeting which adopts amendments to clause 7.6.1 of the Constitution proposed in October 2010 (the October 2010 Amendments), and applies despite any other provision in the New Constitution.	Clause 17.4 (right) to be deleted from the constitution.

	<p>The five longest serving Directors who are appointed in the annual general meeting which adopts the October 2010 Amendments will be deemed to be appointed for a term of one (1) year only commencing on the date of the first annual general meeting which adopts the October 2010 Amendments.</p>	
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DTC

Registration No A0023151E

Defence Teaming Centre Inc

CONSTITUTION

(Amended November 2019)

Title	Version	Date	Changes
DTC Constitution	Original	1996	
DTC Constitution	Amended November 2001	November 2001	
DTC Constitution	Amended November 2007	October 2007	Amended Clause 14.1 ALTERATION OF CONSTITUTION
DTC Constitution	Amended November 2008	October 2008	Amended Clause 4.3 CLARIFICATION
DTC Constitution	Amended October 2010	October 2010	
DTC Constitution	Amended November 2016	November 2016	Amended Clauses 2, 4.1.7, 6.5.1, 6.7, 6.8.1, 6.8.3, 6.10.3
DTC Constitution	Amended November 2019	November 2019	Amended Clauses 3, 4.1.7, 5, 6.3.2, 6.5, 7.4, 7.10.5, 15, 16.1, 17.4

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CONSTITUTION

1 NAME

The name of the Incorporated Association is Defence Teaming Centre Incorporated.

2 DEFINITIONS

In this Constitution, unless the contrary intention appears:-

the “**Act**” means the Associations Incorporation Act, 1985;

“**Board**” means the committee of DTC as referred to in Section 29(1) of the Act;

“**Board Appointed Director**” means a Director appointed under Clause **7.5.1(c)**.

Clause numbers in bold means clauses of this Constitution.

“**Director**” means a person appointed as a member of the Board of DTC.

“**DTC**” means Defence Teaming Centre Incorporated.

“**Meeting**” means a general meeting of Members convened in accordance with this Constitution;

“**Member**” means a person who or a body that is under this Constitution a Member and includes a Public Sector Member.

“**Member Elected Director**” means a Director appointed (as applicable) under Clause **7.5.1(a)** or Clause **7.5.2**.

“**Observer**” means any person entitled to attend as observer at Board Meetings pursuant to Clauses **7.10** hereof.

“**Officer**” means: -

(a) any person who:

(i) occupies or acts in a position of: -

- a Member of the Board; or
- a Secretary, Treasurer or Public Officer of DTC; or

(ii) is concerned, or takes part in, in the management of the affairs of DTC;

(iii) by whatever name called and whether or not validly appointed to occupy or duly authorised to act in the position; or

(b) the holder of any other office established by this Constitution (except a patron or holder of some other honorary office that confers no right to participate in the management of the affairs of DTC); or

(c) any person in accordance with whose directions or instructions the Board is accustomed to Act.

“**Public Sector Member**” has the meaning given in paragraph 6.4.2.

“**Public Sector Director**” means a Director appointed under Clause 7.5.1(b).

“**Representative**” means any person duly appointed to represent any Member that is a corporation or partnership pursuant to Clause 6.2 hereof.

the “**Regulations**” means the Associations Incorporation Act Regulations, 1993.

3. **CONCEPT OF DTC**

Australian companies predominantly those with industrial, manufacturing and engineering resources within the defence industry often lack size, broad based expertise and other attributes beneficial in formulating competitive tenders for and expanding the market for their services in defence related projects. It is perceived that these deficiencies may be addressed by Australian companies adopting more efficient, co-operative and effective business practices. DTC is intended to facilitate this process by:

- Establishment of general services to all Members and defence industry participants. For example, a database of defence industry and Members capability to promote rapid and effective formation of tendering teams. These services are to be made available to all Members and defence industry participants when considered to be in the interests of Members and defence industry; and
- Provision of specific services to facilitate with respect to particular opportunities.

4. **OBJECTS AND PURPOSES**

4.1 **Principal Objects**

The principal purpose of DTC is to promote and develop Australian businesses with an interest in the defence industry, predominantly those businesses with industrial, manufacturing, engineering and professional resources, with key objects to:

- 4.1.1 promote collaborative activities between the defence industry participants;
- 4.1.2 act as a facilitator for collaborative bidding by defence industry participants in targeted defence projects;
- 4.1.3 facilitate and contribute to the growth of the defence industry in Australia;
- 4.1.4 assist and support defence industry participants in their interactions;
- 4.1.5 advocate on behalf of defence industry participants in defence policy formulation process; and
- 4.1.6 educate businesses to assist them to participate in the defence industry.

4.2 **Subsidiary Objects**

The subsidiary objects of DTC shall be:

- 4.2.1 Conduct or be involved in such fundraising and other initiatives as may be considered necessary or desirable for the advancement of the principal objects referred to in Clause 4.1.

4.3 **Clarification**

Nothing in this Constitution is to be taken to mean that DTC has a principal or subsidiary object contrary to sections 18(5) and 18(6) of the Act. To avoid doubt, DTC may to the fullest extent allowed by the Act (including under section 18(6)), engage in such activities DTC considers appropriate to provide financial support to DTC so DTC can carry out its objects (including by engaging in transactions with non-members).

5. **POWERS**

For the purposes of carrying out its objects DTC may:

- 5.1 acquire, hold, deal with, and dispose of, any real or personal property; and
- 5.2 administer any property on trust; and
- 5.3 open and operate bank accounts; and
- 5.4 invest its monies: -
 - 5.4.1 in any security in which trust monies may, by Act of Parliament, be invested; or
 - 5.4.2 in any other manner authorised by this Constitution; and
- 5.5 borrow money upon such terms and conditions as DTC thinks fit; and
- 5.6 give such security for the discharge of liabilities incurred by DTC as it thinks fit; and
- 5.7 appoint agents to transact any business of DTC on its behalf; and
- 5.8 subject to Section 53 of the Act DTC may invite and accept deposits of money from any person on such terms and conditions as may be determined by the Board from time to time.
- 5.9 make, enter into or do any other contract, arrangement, enterprise, submission or thing it considers necessary or desirable.
- 5.10 promote, sponsor and/or facilitate the formation of legal relationships, structures, entities or initiatives involving Members.

Where resources or services of DTC are sought to be used by a Member in a respect that is identifiable as being related to that Member generating a pecuniary gain, DTC may provide such resources or services on such terms and for such compensation as may be considered by the Board to be appropriate having regard to the concept set out in Clause 3.

As a not for profit organisation, DTC must not distribute any surplus, income or assets directly or indirectly to its members

6. MEMBERSHIP

6.1 Who may be a Member

Members may be bodies corporate or natural persons, whether in their own right or in a representative capacity.

6.2 Representatives of Corporate Members and Partnerships

If a Member is a body corporate or partnership, it may be represented at meetings and all other DTC affairs by a Representative of the corporate Member or by any partner. Subject to qualifications in the terms of his or her appointment, any such Representative may exercise any and all of the rights of the Member including the appointment of a proxy.

6.3 Applications

6.3.1 Application for Membership may be made on the application form available from the office of DTC.

6.3.2 Each application shall be submitted for the approval of the CEO and if approved, the applicant shall become a Member upon payment of the appropriate subscription fee. The name of the Member will be recorded in a Register of Members kept for that purpose.

6.4 Classes of Membership

Membership of DTC shall consist of the following classes:

6.4.1 Members; and

6.4.2 Public Sector Members, being Members that are government or semi-government institutions or other organisations that have similar or consistent objectives to DTC that have applied and been accepted as Members on this basis.

6.5 Entitlements

6.5.1 All members shall have the same entitlements.

6.6 Subscriptions

6.6.1 *Amount*

(a) The annual subscription fees for Members other than Public Sector Members shall be such sum as the Board shall from time to time determine.

(b) The annual subscription fee or the value of goods or services provided or to be provided in lieu of a subscription fee by Public Sector Members shall be such as the Board shall determine with respect to each Public Sector Member.

- (c) The subscription fee for new Members who join during a financial year is to be calculated as a pro-rata proportion of the annual subscription fee based upon the date of applying for Membership to a minimum of 25% of the annual subscription fee.

6.6.2 **When Payable**

The subscription fees of each Member shall be payable upon becoming a Member and thereafter annually at the commencement of each financial year or at such other time as the Board shall determine from time to time.

6.7 **Member Resignation and Failure to Pay**

A Member may resign from Membership of DTC by giving written notice thereof to the Secretary or the Public Officer of DTC by the membership renewal anniversary date. In the event any Member so resigns after the anniversary date, then the member shall be liable in full for any outstanding subscriptions which shall be recovered as a debt due to DTC.

Any outstanding subscriptions at the time of a winding up event under Clauses **15** and **16** of this constitution are also payable in full and shall be recovered as a debt due to DTC.

6.8 **Expulsion of a Member**

- 6.8.1 Subject to giving a Member an opportunity to be heard or to make a written submission, the Board may resolve to expel a Member upon a charge of conduct detrimental to the interests of DTC.
- 6.8.2 Particulars of the charge shall be communicated to the Member in writing at least one calendar month before the meeting of the Board at which the matter will be resolved.
- 6.8.3 The determination of the Board shall be communicated to the Member in writing, and in the event of an adverse determination the Member shall subject to Clause **6.8.4** cease to be a Member 14 days after the Board has communicated its determination to the Member.
- 6.8.4 It shall be open to a Member to appeal to DTC in general meeting against the expulsion. The intention to appeal shall be communicated in writing to the Secretary or Public Officer of DTC within 14 days after the determination of the Board has been communicated to the Member.
- 6.8.5 In the event of an appeal under Clause **6.8.4** the appellant's Membership of DTC shall not be terminated unless the determination of the Board to expel the Member is upheld by the Members in general meeting after the appellant has been heard, and in such event Membership will be terminated at the date of the general meeting at which the determination of the Board is upheld.

6.9 **Calling of General Meetings**

6.9.1 Annual General Meeting

The Board shall call an annual general meeting within 18 months after incorporation of DTC, and thereafter within 5 months after the end of each financial year of DTC.

6.9.2 Special General Meeting

(a) Convening by the Board

The Board may call a Special General Meeting of the Members at any time.

(b) Convening by Members

- (i) Upon a requisition in writing of not less than Twenty-Five Per Centum (25%) of the total number of Members, the Board shall within one month of the receipt of the requisition, convene a special general meeting for the purpose specified in the requisition.
- (ii) Every requisition for a special general meeting shall be signed by the Members making the same and shall state the purpose of the meeting.
- (iii) If a special general meeting is not convened within one month as required by Clause **6.9.2(b)(i)** the requisitionists may convene a special general meeting. Such a meeting shall be convened in the same manner as a meeting convened by the Board, and for this purpose the Board shall ensure that the requisitionists are supplied free of charge with particulars of the Members entitled to receive a notice of meeting. The reasonable expenses of convening and conducting such a meeting shall be borne by DTC.

6.10 Notice of General Meetings

6.10.1 Annual/Special General Meetings

Subject to Clause **6.10.2** at least 14 days' notice of any Annual/Special general meeting shall be given by DTC to the Members. The notice shall set out where and when the meeting will be held, and particulars of the nature and order of the business to be transacted at the meeting. In the case of the annual general meeting, the order of the business at the meeting shall be the consideration of the accounts and reports of the Board and the auditors, the appointment of auditors and Directors (if required), and any other business requiring consideration by DTC in general meeting.

6.10.2 Where Special Resolution is Proposed

Notice of a meeting at which a special resolution is to be proposed shall be given at least twenty-one (21) days prior to the date of the meeting.

6.10.3 Service of Notice

A notice may be given by DTC to any Member by serving the Member with the notice personally, by sending it by post by electronic means to the address appearing in the register of Members. Where a notice is sent by post, service of the notice shall be deemed to be effected if it is properly addressed and posted to the Member by ordinary prepared mail.

6.11 Proceedings at General Meetings

6.11.1 *Quorum*

- (a) Ten (10) Members present personally or by proxy shall constitute a quorum at any general meeting.
- (b) If within thirty minutes after the time appointed for a meeting a quorum of Members is not present, a meeting convened upon the requisition of Members shall lapse. In any other case, the meeting shall stand adjourned to the same day in the next week, at the same time and place and if at such adjourned meeting a quorum is not present within 30 minutes of the time appointed for the meeting the Members present shall form a quorum.

6.11.2 *Chairperson*

- (a) The Chairperson of the Board or if there shall be no Chairperson, then the Vice-Chairperson of the Board or in their absence, or on their declining to take, or retiring from the chair, one of the Directors chosen by meeting shall preside as Chairperson at every general meeting of DTC.
- (b) If there is no such Chairperson or Vice-Chairperson present within 5 minutes after the time appointed for holding the meeting, the Members may choose one of their number to be the Chairperson.

6.11.3 *Adjournment*

The Chairperson may with the consent of any meeting at which a quorum is present, and shall if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

6.11.4 *Proxies*

- (a) A Member or its Representative shall be entitled to appoint in writing a natural person to be his/her proxy, and attend and vote at any meeting or all meetings or all meetings of DTC.
- (b) A proxy may be appointed by a corporate Member by a resolution of its board authenticated under its seal or by its duly appointed Representative.

- (c) A proxy may be appointed by a Member that is a partnership by any partner or by its duly appointed Representative.

6.11.5 ***Voting at General Meetings***

Subject to this Constitution each Member present in person or by Representative or proxy shall be entitled to one vote.

6.11.6 ***Resolutions***

At any general meeting, a resolution put to a vote shall be decided on a show of hands of all persons in attendance and entitled to vote, and a declaration by the Chairperson of the meeting that a resolution has been carried or lost shall, unless a poll is demanded, be conclusive evidence of that fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

6.11.7 ***Poll***

- (a) If a poll is demanded by the Chairperson of the meeting or by three or more Members present personally or by proxy, it shall be taken in such manner as the Chairperson directs. The result of such poll shall be the resolution of the meeting, except that in the case of a special resolution a majority of not less than three quarters of the Members who being entitled to do so vote personally or by proxy at the meeting is required.
- (b) A poll demanded on the election of a Chairperson of a meeting or on any question of an adjournment, shall be taken at the meeting and without adjournment.

7. THE BOARD

7.1 Role

The affairs, funds and other property of DTC shall be managed and controlled exclusively by the Board which in addition to any powers and authorities conferred by this Constitution may exercise all such powers and do all such things as are within the objects of DTC, and are not by the Act or by this Constitution required to be done by DTC in general meeting.

7.2 Responsibilities

The Board of DTC is responsible for ensuring that DTC complies with this Constitution, the Act and other applicable laws. For example, the Board must ensure that meetings are called and conducted as they should be, that accounts and records are properly kept and that (if required) an auditor is engaged to audit the accounts.

7.3 Delegation

The Board shall have the power to appoint such Officers and employees as are required to carry out the objects of DTC, including a Public Officer required by the Act, and may delegate any of its powers to such Officers and employees.

7.4 Nomination of Director

7.4.1 *Not Required for Retiring Directors*

Subject to eligibility, each retiring Director shall be eligible to stand for re-election to the Board without nomination.

7.4.2 *Required for New Directors*

No person (not being a retiring Director) shall be eligible to stand for election unless a Member has nominated him or her at least twenty-eight (28) days before the meeting by delivering the nomination of that person to the Secretary of DTC.

7.4.3 *Signed by Proposer and Nominee*

Nominations shall be signed by the proposer and by the nominee to signify his or her consent to stand for election, consent to being appointed as a Director and undertaking to abide by the duties of Directors set out in Clause 7.8 if appointed.

7.4.4 **Notice to Members**

Notice of all persons seeking election to the Board shall be given to all Members with the notice of meeting or as early as reasonably practicable before the meeting at which the election is to take place.

7.5 **Election**

7.5.1 **Composition and Term**

The Board shall consist of up to fifteen (15) natural persons determined as follows:

- (a) **Member Elected Directors** - All Members or their Representatives who have been nominated and consented to being appointed to the Board up to a maximum of eleven (11) shall automatically become Directors. If more than eleven (11) are nominated and consent, the eleven (11) appointed shall be determined by a majority vote of all Members.
- (b) **Public Sector Directors** - Any Public Sector Members or their Representatives who have been nominated by the Board and who have consented to being appointed to the Board up to a maximum of two (2) shall become Directors.
- (c) **Board Appointed Directors** - Any persons who have been nominated by the Board and who have consented to being appointed to the Board up to a maximum of two (2) shall become Directors. The Board may appoint such Board Appointed Directors where the Board resolves such persons would provide particular expertise or skills to the Board or would ensure the better representation of a class of Members on the Board.

Member Elected Directors will be appointed for a term of two (2) years. Public Sector Directors and Board Appointed Directors will be appointed for a term determined by the Board but not exceeding a term of two (2) years.

7.5.2 **Election Not Required**

If the number of persons who are nominated and consent for positions as Member Elected Directors is less than or equal to the number of vacancies, the Secretary shall report accordingly to the annual general meeting, and the Chairperson shall declare such persons duly elected as Member Elected Directors.

7.5.3 **Manner of Election**

Any voting in election of Directors pursuant to this clause should be by secret ballot/poll rather than an open show of hands.

7.5.4 **Casual Vacancy**

The Board may appoint a natural person to fill a casual vacancy in the Board until the next annual general meeting of DTC and any such appointment shall be eligible for reappointment, subject to eligibility.

7.6 **Disqualification of Directors**

The position of a Director shall become vacant if that Director is:

- 7.6.1 disqualified by the Act;
- 7.6.2 expelled under this Constitution;
- 7.6.3 permanently incapacitated by ill health;
- 7.6.4 absent without apology from more than three consecutive Board meetings, or absence without an apology for more than three Board meetings in a financial year;
- 7.6.5 a Member Elected Director and the Director is no longer a representative of a corporate Member; or
- 7.6.6 a Public Sector Director and the Director is no longer a representative of that Public Sector Member

7.7 **Duties of Directors**

7.7.1 **Guidance**

A person should not consent to become a Director unless he or she is ready, willing and able to give proper attention and effort to the responsibilities of a Director. Directors will normally be employees of Member companies. Nevertheless, Directors must impartially advance the best interests of DTC and its Members according to this Constitution, and the general duties referred to in Clause **7.8.2** reflect this. A Director should not be influenced or compromised by his or her duties as an employee of any particular Member. If such influence or compromise is encountered or cannot be avoided, it gives rise to a conflict of interest which should be dealt with as set out in Clause **7.8.3**.

7.7.2 **General Duties**

Directors are Officers of DTC so the general duties set out in Clause **8.3** apply.

7.7.3 **Conflict and Disclosure of Interest**

In accordance with Sections 31 and 32 of the Act, any Director having a conflict of interest or any direct or indirect pecuniary interest in any contract or other matter the subject of any proposed DTC action or consideration must:

- (a) Disclose the nature and extent of the same to the Board and not vote with respect to that matter; and
- (b) Disclose the nature and extent of the same to the Members at the next Annual General Meeting of DTC.

7.7.4 **Duty to Resign**

If a Director is not ready, willing and able to properly perform his or her duties as a Director or, for example, is subject to a conflict of interest or other difficulty that is not able to be properly avoided by disclosure and abstaining from voting, then that Director should resign.

7.8 Board Positions

The Board once constituted and after each Annual General Meeting shall elect Directors as and to fulfill the responsibilities of:

- 7.8.1 Chairperson;
- 7.8.2 Vice Chairperson;
- 7.8.3 Secretary;
- 7.8.4 Treasurer,

and the persons so elected shall have the responsibilities and duties of normally arising from such offices.

7.9 Board Meetings

7.9.1 *Who may attend?*

The following may attend Board Meetings unless excluded by resolution of the Board due to the Board having to consider matters where there is a legitimate need for confidentiality:-

- (a) all Directors;
- (b) any Chief Executive Officer appointed by DTC;
- (c) any Public Sector Member and any other person invited by the Board to attend as an Observer.

7.9.2 *Quarterly Meetings*

The Board should meet together for the despatch of business at least quarterly.

7.9.3 *Quorum*

Five (5) Directors present personally, attending via the use of technology approved by the Board (including telephone or video conferencing) or by proxy shall constitute a quorum at any Board Meeting.

7.9.4 *Resolutions*

At any Board Meeting, a resolution put to a vote shall be decided on a majority of votes (based on a show of hands by those Director's present in person or attending by means of visual technology and by verbal confirmation by those Directors attending by means of non-visual technology) of all Directors in attendance and entitled to vote, and a declaration by the Chairperson of the Board Meeting that a resolution has been carried or lost shall, unless a poll is demanded be conclusive evidence of that fact without proof of the number of proportion of the votes recorded in favour of, or against, the resolution.

7.10.5 *Poll*

If a poll is demanded by the Chairperson of the Board Meeting or by any Director present, it shall be taken in such manner as the Chairperson directs. The result of such poll shall be the resolution of the Board Meeting.

7.10 **Sub-Committees**

7.10.1 ***Establishment***

The Board may at its discretion have the power to establish sub-committees to enhance the effectiveness of the Board.

7.10.2 ***Terms of Reference***

The Board may formulate written terms of reference for each sub-committee, which should deal adequately with its authority and duties, including whether, and in what areas, it can act on behalf of the Board, or whether it can only investigate, consider and recommend.

7.10.3 ***Reporting***

The Board may formulate procedures for reporting by each sub-committee to the Board, both orally and in writing.

7.10.4 ***Resources***

The Board shall formulate arrangements for staffing the sub-committees, for providing adequate access to relevant DTC Members, and agreed procedures for obtaining independent external advice at the cost of DTC.

7.10.5 ***Sub-Committee Quorum***

Either three (3) Directors, or two (2) Directors and the DTC CEO present personally, attending via the use of technology approved by the Board (including telephone or video conferencing) or by proxy shall constitute a quorum at any Board established sub-committee meeting.

8. **OFFICERS**

8.1 **Chief Executive Officer**

8.1.1 The Board may appoint a Chief Executive Officer to assist it in the management of DTC.

8.1.2 The Chief Executive Officer shall:

(a) be under the control of and answerable to the Board;

(b) shall act as a conduit to facilitate communication between the Board and Members;

(c) report to the Board as to any matter or thing required by the Board;

- (d) attend to the day to day operations and management of DTC as directed by the Board;
- (e) do such other things as the Board directs.

8.1.3 For the purposes of the Act the Chief Executive Officer if appointed shall be also the Public Officer of DTC and shall attend all Board and General Meetings.

8.2 Other Executive Officers

The Board may from time to time appoint such persons as officers of DTC to fulfil such roles and on such terms as the Board in its discretion thinks fit.

8.3 Duties of Officers

- 8.3.1 An Officer must act honestly, in good faith and in the best interests of DTC as a whole.
- 8.3.2 An Officer shall have a duty to use due care and diligence in fulfilling the functions of office and exercising the powers attached to the office.
- 8.3.3 An Officer must use the powers of the office for a proper purpose, in the best interests of DTC as a whole.
- 8.3.4 An Officer must recognise that the primary responsibility shall be to DTC as a whole.
- 8.3.5 An Officer must not make improper use of information acquired as an Officer.
- 8.3.6 An Officer must not take improper advantage of the position of an Officer.
- 8.3.7 An Officer must not allow personal interests, or the interests of any associated person, to conflict with the interests of DTC.
- 8.3.8 An Officer shall have the obligation to be independent in judgment and actions and take all reasonable steps to be satisfied as to the soundness of all decisions taken by the Board.
- 8.3.9 Confidential information received by an Officer in the course of the exercise of his or her duties shall remain the property of DTC and it shall be improper to disclose or allow the confidential information to be disclosed unless that disclosure has been authorised by the Board or is required by law.
- 8.3.10 An Officer shall not engage in conduct likely to bring discredit upon DTC.
- 8.3.11 An Officer shall have an obligation, at all times, to comply with the spirit, as well as the letter of the law and with the principles of this Constitution.

8.4 Indemnities to Officers

- 8.4.1 DTC indemnifies every Officer of DTC against any liability incurred by the person in his or her capacity as Officer of DTC in defending any proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted.
- 8.4.2 DTC may pay a premium in respect of a contract insuring a person who is or has been an Officer of DTC against liability incurred by the person as an Officer of DTC.
- 8.4.3 For the purposes of this Clause, "Officer" includes all Directors, the Chief Executive Officer and any other Officers duly appointed.

9. **MINUTES**

9.1 **Required for all Board and General Meetings**

Proper minutes of all proceedings of meetings of DTC and of meetings of the Board, shall be entered within one month after the relevant meeting in minute books kept for the purpose.

9.2 **Signed by Chairperson**

The minutes kept pursuant to this Clause shall be signed by the Chairperson of the meeting at which the proceedings took place or by the Chairperson of the next succeeding meeting.

9.3 **Evidence**

Where minutes are entered and signed they shall until the contrary is proved be evidence that the meeting was convened and duly held, that all proceedings held at the meeting shall be deemed to have been duly held, and that all appointments made at a meeting shall be deemed to be valid.

10. **THE SEAL**

10.1 **Seal to Bear Name**

DTC shall have a common seal upon which its corporate name shall appear in legible characters.

10.2 **Authority to Use and Record of Use**

The seal shall not be used without the express authorisation of the Board, and every use of the seal shall be recorded in the minute book of DTC. The affixing of the seal shall be witnessed by any two of the Chairperson, Vice Chairperson, Secretary or Treasurer or any one of the office holders and one other Director.

10.3 **Custody**

The seal shall be kept in the custody of the Secretary or such other person as the Board may from time to time decide.

11. FINANCIAL YEAR

The first financial year of DTC shall be the period ending on 30 June 1997, and thereafter the period ending on 30 June in each year.

12. ACCOUNTS

The Board shall cause such accounting records to be kept as correctly record and explain transactions and financial position of DTC in such manner as will enable:-

12.1 The preparation from time to time of accounts that present fairly the results of operations of DTC; and

12.2 The accounts of DTC to be conveniently and properly audited in accordance with the Act where required.

13. AUDIT

Where DTC has had gross receipts in the previous financial year of more than \$200,000.00 or such greater amount as may be prescribed by Regulation, the Board shall: -

13.1 Cause the accounts to be audited by a registered company auditor, a firm of registered company auditors or a person who is a Member of the Australian Society of Certified Practising Accountants or of the Institute of Chartered Accountants.

13.2 Cause to be attached to the accounts, before the auditor reports on the accounts, a statement made in accordance with a resolution of the Board and signed by two Directors containing the information required by Section 35(2)(c) of the Act.

14. ALTERATION OF CONSTITUTION

14.1 Subject to approval by a special resolution of the Members, this Constitution may be altered (including an alteration to name), or be rescinded and replaced by a substituted Constitution. Such an alteration shall be registered with the Commission as required by the Act.

14.2 The Constitution shall bind DTC and every Member to the same extent as if they had respectively signed and sealed the Constitution and agreed to be bound by all of the provisions thereof.

15. WINDING UP

15.1 Subject to the Act, DTC may be wound up voluntarily by special resolution. The body to which the surplus assets are to be given must be decided by special resolution.

16. APPLICATION OF SURPLUS ASSETS

16.1 The surplus assets must be given to a body that has similar objects to DTC and which is not carried on for the profit or gain of its individual members, but must not be distributed to any members or former members of DTC.

17. TRANSITIONAL PROVISION

17.1 In this Clause, Old Constitution means that Constitution in place immediately preceding this Constitution and New Constitution means this Constitution.

17.2 The New Constitution is to come into effect immediately upon the resolution for its introduction being passed.

17.3 For the purpose of introduction of the New Constitution: -

17.3.1 Board Members, Members and any other persons occupying any position, having any office or enjoying any rights or benefits under the Old Constitution shall, upon introduction of the New Constitution, be taken to occupy the equivalent position, have the equivalent office and have the equivalent rights or benefits under the New Constitution, mutatis mutandis, for the time being.

17.3.2 Any nomination of any person to any Board or other position under the Old Constitution may be taken to be a nomination to the equivalent position under the New Constitution.

17.3.3 Any other matter, circumstance or thing arising under or with respect to the Old Constitution may, for the purpose of facilitating a smooth and expeditious transition, be treated as an equivalent matter, circumstance or thing under or with respect to the New Constitution and dealt with accordingly (mutatis mutandis).

~~17.4 This clause 17.4 applies to the first Board to be appointed in the annual general meeting which adopts amendments to clause 7.6.1 of the Constitution proposed in October 2010 (**the October 2010 Amendments**), and applies despite any other provision in the New Constitution.~~

~~The five longest serving Directors who are appointed in the annual general meeting which adopts the October 2010 Amendments will be deemed to be appointed for a term of one (1) year only commencing on the date of the first annual general meeting which adopts the October 2010 Amendments.~~