
CORPORATIONS ACT

Company Limited by Shares

CONSTITUTION

-of-

SYDNEY AIRPORT HOLDINGS LIMITED

PRELIMINARY

1. (1) IN this Constitution, unless the contrary intention appears -

"Constitution" means this Constitution as altered or added to from time to time and a reference to a provision of this Constitution is a reference to that provision as altered or added to from time to time;

"call" includes an installment of a call;

"charge" includes a mortgage;

"Law" means the *Corporations Act 2001* (Cth) as amended or re-enacted from time to time and a reference to a provision of the Law is a reference to that provision as amended or re-enacted from time to time;

"the Company" means Sydney Airport Holdings Limited (ACN 075 295 760);

"debenture" means a debenture or debenture stock of the Company and includes a bond note or other security of the Company whether constituting a charge on its assets or not;

"Director" includes an Alternate Director;

"Directors" means all or some of the Directors (not being less than a quorum) acting as a board;

"holding company" means a body corporate of which the Company is a wholly-owned subsidiary;

"member" means a person who is registered as the holder of shares in the capital of the Company;

CONSTITUTION OF
SYDNEY AIRPORT HOLDINGS LIMITED
ACN 075 295 760

"paid", in relation to shares and capital, includes credited as paid;

"person" and words importing persons include bodies corporate;

"Personal Matters" means any activities or assets of the Company (including, but not limited to, any contractual rights or rights to receive fees or other benefits as trustee or otherwise), which are not activities undertaken by or assets held by the Company:

(a) in its capacity as the responsible entity of a registered scheme (as those terms are defined in the Law); or

(b) as an advisor to a client to whom a fiduciary duty is owed.

"register" means the register of members kept pursuant to the Law and includes a branch register;

"representative" means a body corporate representative appointed by a member pursuant to the Law;

"Secretary" includes an acting Secretary and a person appointed by the Directors to perform all or any of the duties of a Secretary;

"share" means a share in the Company;

words importing the singular include the plural and vice versa and words importing the masculine include the feminine and neuter; and

"writing" includes typewriting, printing, lithography, photography and other modes of representing or reproducing words in a visible form and "written" has a corresponding meaning.

- (2) The headings are inserted for convenience only and do not affect the construction of this Constitution.

The powers conferred on the Company, the Directors, a Director or a member may be exercised at any time and from time to time.

2. THE Replaceable Rules contained in the Law are displaced by this Constitution and accordingly do not apply to the Company.

2A. THIS Constitution supersedes the constitution in force immediately before the adoption of this Constitution and everything done under any previous

CONSTITUTION OF
SYDNEY AIRPORT HOLDINGS LIMITED
ACN 075 295 760

constitution of the Company continues to have the same operation and effect after the adoption of this Constitution as if properly done under this Constitution. In particular (without limitation) every Director, Alternate Director and Secretary in office immediately before the adoption of this Constitution is taken to have been appointed and continues in force under this Constitution.

SHARES

3. SUBJECT to the Law this Constitution and any special rights conferred on the holders of any shares or class of shares -
- (1) the issue of shares is under the control of the Directors;
 - (2) the Directors may allot or otherwise dispose of such unissued shares with such preferred, deferred or other rights and subject to such restrictions as to dividends, voting, return of capital, payment of calls or otherwise to such persons, on such terms and conditions as they think fit;
 - (3) the Directors may on the issue of shares differentiate between the holders thereof as to the amount of calls to be paid and the times of payment; and
 - (4) the Directors may grant to any person an option over shares during such time and for such consideration as they think fit.
4. (1) THE Company shall not issue any preference shares nor shall any issued shares be converted into preference shares unless the rights of the holders of the preference shares with respect to repayment of capital, participation in surplus assets and profits, cumulative or non-cumulative dividends, voting and priority of payment of capital and dividend in relation to other shares or other classes of preference shares are set out in this Constitution.
- (2) Where the Company proposes to issue preference shares or to convert issued shares into preference shares and those preference shares are to rank equally with or in priority to preference shares already issued, unless that is expressly permitted by the conditions of issue of the preference shares already issued, the issue or conversion shall be deemed to be a modification of the rights attached to the preference shares already issued.
 - (3) Subject to the Law, the Company may issue preference shares which are, or at the option of the Company are to be liable, to be redeemed

CONSTITUTION OF
SYDNEY AIRPORT HOLDINGS LIMITED
ACN 075 295 760

on such terms and conditions and in such manner as the Directors determine before the issue thereof.

(4) The Non-Cumulative Redeemable Preference Shares (hereinafter called “the Preference Shares”) shall, notwithstanding any other provision in this Constitution, confer on the holders thereof the following rights, powers and privileges and shall be subject to the following conditions:

(a) All or any of the Preference Shares are redeemable by the Company at the discretion of the Directors provided that the Company has given at least 7 days prior written notice to the holders of the Preference Shares of the Directors’ intention to redeem the Preference Shares;

(b) During the period in which the Preference Shares have been issued and not yet redeemed pursuant to this Clause, each such share shall confer the right to a preferential dividend as determined by the Directors of the Company from time to time;

(c) The Preference Shares shall rank for dividend in priority to all other shares or classes of shares in the capital of the Company, but shall not be entitled to any further participation in the profits of the Company;

(d) In the event of the Company being wound up the holders of the said Preference Shares shall have the right to be repaid and paid:

(i) the issue price of the Preference Shares held by them respectively; and

(ii) any arrears of dividend up to the date of repayment of the capital;

in priority to the holders of all other shares in the capital of the Company but shall not be entitled to any further participation in the profits or assets of the Company;

(e) Without prejudice to any of the other rights, powers and privileges conferred on the holders of the Preference Shares, the said Preference Shares shall confer on the holders thereof the right to receive Notices of General Meetings and the reports and balance sheets (including profit and loss accounts) of the Company to be laid before such General Meetings and the right to attend General Meetings but shall not entitle the holders thereof

CONSTITUTION OF
SYDNEY AIRPORT HOLDINGS LIMITED
ACN 075 295 760

to vote at any General Meeting of the Company except on a resolution which is for the purposes of:

- (i) winding up the Company; or
 - (ii) reducing the Company's capital; or
 - (iii) capitalising the Company's profits; or
 - (iv) directly affecting any of the rights attaching to the said Preference Shares;
- (f) Whenever any holder of the said Preference Shares is entitled to vote under subclause (e) of this Clause, each Preference Share shall on a poll confer one vote;
- (g) Without the previous consent of a resolution passed by holders of at least three-quarters of the said Preference Shares in issue, present and voting at a separate General Meeting of the holders of such shares (providing always however that where such three-quarters majority is not attained at the meeting the assent in writing if obtained from the holders of at least three-quarters of the shares of that class within two (2) months of the date of the meeting shall be as valid and effectual as a resolution carried at the meeting):
- (i) the Company shall not issue any preference shares ranking in priority to the Preference Shares;
 - (ii) the Company shall not issue any preference shares ranking *pari passu* with the Preference Shares;
 - (iii) neither the rights, powers or privileges nor the exercise or enjoyment of the rights, powers or privileges of the holders of the said Preference Shares shall be in any manner directly or indirectly affected, altered, modified, varied, dealt with or abrogated; nor
 - (iv) the capital of the Company shall not be reduced;
- (h) Subject at all times to the provisions of the Law, the following provisions shall apply to the redemption of the Preference Shares;
- (i) the Company shall redeem the Preference Shares at the discretion of the Directors where the Company has given at least

CONSTITUTION OF
SYDNEY AIRPORT HOLDINGS LIMITED
ACN 075 295 760

7 days written notice to the holders of the Preference Shares; the amount payable on redemption shall be the aggregate of:

1. the issue price thereof; and
1. any arrears of dividend,

PROVIDED THAT and without prejudice to the Company's obligations in that regard in the event that the Company is not able in accordance with the provisions of the Law to redeem the Preference Shares in full by paying the aggregate in full as aforesaid then if the holders of at least three-quarters of the Preference Shares so elect in writing the Company shall pay towards redemption of the Preference Shares so much of the funds of the Company as may lawfully be applied for the purpose until the said aggregate has been paid in full and the Preference Shares accordingly redeemed. Any such payments shall be appropriated in the order set out in sub clauses (h) (i) (1) and (h) (i) (2) above unless the holders of three-quarters of the Preference Shares in writing elect another order in which event the order so elected shall apply;

(ii) redemption shall be effected by the Company making payment in respect of each Preference Share to the holder thereof of an amount calculated in accordance with subclause (h) (i) above;

(iii) the Company may as a condition of payment of the moneys payable on redemption require contemporaneously with such payment the delivery to it (at its registered office) of the share certificate for the Preference Shares to be redeemed;

(iv) the dividends on the Preference Shares which the Company becomes bound to redeem as aforesaid shall cease to accrue as and from the date the Company gives notice of its intention to redeem the said Preference Shares.

**TRANSFER AND TRANSMISSION
OF SHARES**

5. (1) In the case of a transfer of partly paid shares the transfer shall not be registered unless it is endorsed by, or accompanied by an instrument executed by, the transferee to the effect that he agrees to accept the shares subject to the terms and conditions on which the

CONSTITUTION OF
SYDNEY AIRPORT HOLDINGS LIMITED
ACN 075 295 760

transferor held them and to become a member and be bound by the Company's Constitution.

- (2) The transferor remains the holder of the shares and the member of the Company in respect thereof until the name of the transferee is entered in the register.
6. (1) SUBJECT to any applicable law relating thereto, an instrument of transfer shall be in the usual or common form or in any other form acceptable to the Directors generally or in a particular case and shall be left at the registered office of the Company for registration accompanied by the certificate for the shares to be transferred and such other evidence as the Directors may require to prove the title of the transferor and his right to transfer the shares.
- (2) An instrument of transfer which is registered shall be retained by the Company for any period determined by the Directors (after which period the Company may destroy it) but an instrument of transfer which the Directors decline to register shall (except in the case of fraud) be returned on demand to the person depositing it.
7. The Directors may in their absolute discretion decline to register any transfer or transmission of shares without assigning any reason therefor.
8. SUBJECT to the provisions of this Constitution as to transfers and transmissions of shares (especially Clause 7) -
- (1) a person becoming entitled to a share in consequence of the death or bankruptcy of a member or a vesting order may, upon producing such evidence that he sustains the character in respect of which he proposes to act under this Clause or of his title as the Directors think sufficient, either be registered himself as the holder of the share or transfer the share;
 - (2) a person lawfully administering the estate of a member under the provisions of a law relating to mental health or the administration of the estates of patients or infirm persons may, upon producing such evidence that he sustains the character in respect of which he proposes to act under this Clause as the Directors think sufficient, transfer any share registered in the name of that member.

BORROWING POWERS

9. THE Directors may exercise all the Company's powers to borrow money and secure any debts, liabilities, contracts or obligations incurred or

CONSTITUTION OF
SYDNEY AIRPORT HOLDINGS LIMITED
ACN 075 295 760

undertaken by the Company in such terms and conditions as they think fit and in particular may accept deposits, issue perpetual or redeemable debentures and give a charge or other security over the whole or any part of the Company's undertaking and property (present and future) including its uncalled capital for the time being.

10. SUBJECT to the Law, where a Director or other officer of the Company becomes personally liable for the payment of a sum primarily due from the Company the Directors may execute or cause to be executed a charge or other security over the whole or any part of the Company's undertaking and property (present and future) including its uncalled capital for the time being by way of indemnity to secure him against any loss in respect of that liability.
- 10A. THE Company may reduce or alter its share capital in any manner provided for by the Law. The Directors may do anything which is required to give effect to any resolution authorising reduction or alteration of the share capital of the Company and, without limitation, may make provision for the issue of fractional certificates or the sale of fractions of shares and the distribution of net proceeds as they think fit.

GENERAL MEETINGS

11. (1) The Directors may whenever they think fit convene a general meeting and must convene an annual general meeting on the same day as the annual general meeting of the unitholders in Sydney Airport Trust 2 (ARSN 099 597 896) (the *Trust*) for so long as the Company is responsible entity of the Trust.
- (2) The accidental omission to give notice of any meeting to or the non-receipt of any such notice by any of the members shall not invalidate any resolution passed at any such meeting.

PROCEEDINGS AT GENERAL MEETINGS

12. (1) NO business may be transacted at any general meeting except the election of the Chairman unless a quorum of members is present at the time when the meeting proceeds to business.
- (2) TWO members present in person or by proxy, attorney or representative are a quorum at a general meeting.
- (3) A sole member may act notwithstanding provision 12(2) and in such case one member present in person or by proxy, attorney or representative shall be a quorum at a general meeting.

CONSTITUTION OF
SYDNEY AIRPORT HOLDINGS LIMITED
ACN 075 295 760

13. THE Chairman of Directors is entitled to preside at every general meeting but if there is no such Chairman or if he is not present within 15 minutes after the time appointed for a meeting or is unwilling to act the members present shall elect one of their number to be Chairman of the meeting.

VOTES OF MEMBERS

14. (1) SUBJECT to the rights and any restrictions attached to or affecting any class of shares on a show of hands each person present as a member, proxy, attorney or representative has one vote and on a poll each member present in person or by proxy, attorney or representative has one vote for each share held by him.
- (2) Each question submitted to a general meeting is to be decided by a show of hands of the members present and entitled to vote, unless a poll is demanded.
- (3) Unless a poll is demanded, a declaration by the Chairman following a vote on a show of hands that a resolution has been passed or lost is conclusive.
- (4) A poll may be demanded by a member in accordance with the Law (and not otherwise) or by the Chairman. No poll may be demanded on the election of a Chairman of a meeting or, unless otherwise the Chairman determines, the adjournment of a meeting. A demand for a poll may be withdrawn.
15. (1) WHERE there are joint holders of a share any one of them may vote at a meeting in person or by proxy, attorney or representative in respect of that share as if he were solely entitled thereto but if more than one is present as aforesaid the member whose name stands first in the register in respect of the share is alone entitled to vote in respect thereof.
- (2) Legal personal representatives of a deceased member in whose sole name a share stands shall for the purpose of this Clause be deemed joint holders thereof.
- (3) In the case of an equality of votes the Chairman of the meeting has both on a show of hands and at a poll a casting vote in addition to any votes to which he may be entitled as a member.

CONSTITUTION OF
SYDNEY AIRPORT HOLDINGS LIMITED
ACN 075 295 760

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16. A member may by power of attorney duly executed in the presence of at least one witness (which power shall, if necessary, be duly stamped) appoint an attorney or, may in any form prescribed by the Law or that the Directors may prescribe or accept (including electronic form), appoint a proxy to act on his behalf at all or any meetings of the Company or of any class of members.
17. (1) In order to be effective an instrument appointing an attorney or proxy pursuant to Clause 16, together with, where necessary, such evidence of due stamping and execution and non-revocation of the power of attorney as the Directors may require must be deposited at the registered office of the Company not less than 48 hours before the time appointed for the meeting or adjourned meeting or poll which the appointee proposes to attend or on which he proposes to vote.
- (2) Any form of appointment of a proxy under this Clause 17 which is incomplete may be completed by the Secretary on the authority of the Directors and the Directors may authorise completion of the form by inserting the name of any Director as the person who is appointed proxy.
- (3) Where a notice of meeting provides for electronic lodgement of proxy appointment forms, a form lodged at the electronic address specified in the notice is taken to have been received at the registered office and validated by the member if there is compliance with the requirements set out in the notice.

PROCEEDINGS AT SPECIAL MEETINGS

- 17A. ALL the provisions of this Constitution as to general meetings apply to any special meeting of any class of members which may be held under the operation of this Constitution or the Law.

DIRECTORS

18. (1) UNLESS otherwise determined by the Company in General Meeting the number of Directors shall:
- (a) prior to 31 March 2010, not be less than three and not more than 12; and
- (b) from 31 March 2010, not be less than six and not more than 12.

CONSTITUTION OF
SYDNEY AIRPORT HOLDINGS LIMITED
ACN 075 295 760

- (2) If there is only one Director in office he shall forthwith convene an extraordinary general meeting of members of the Company for the purpose of appointing another Director or Directors of the Company.
- (3) A person may be appointed a Director of the Company by a resolution of the Company except where the Company is responsible entity of the Trust, in which case the Directors elected to the Company in accordance with the constitution of the Trust will be appointed instead of one or more Directors appointed by the Company.
- (4) The Directors may appoint any person to be a Director either to fill a casual vacancy or as an additional Director. A Director appointed under this provision may hold office only until the end of the next annual general meeting of the Company and is eligible for election at that meeting but is not to be taken into account in determining the number of Directors who are to retire by rotation at that meeting.
- (5) A Director may not hold office for a continuous period in excess of three years or past the third annual general meeting following the Director's appointment, whichever is the longer, without submitting for re-election. An election of Directors must be held each year. If no Director would otherwise be required to submit for election or re-election, the Director to retire under this provision is the Director longest in office since last being elected. As between Directors who were last elected on the same day the one who is to retire is (in default of agreement between them) determined by ballot. The length of time a Director has been in office is calculated from the Director's last election or appointment. A retiring Director is eligible for re-election.
- (6) Any Director who retires at a General Meeting and seeks re-election at the meeting retains office until the dissolution or adjournment of the meeting.
- (7) A Director may seek election or re-election under provision 4 or 5 without needing to give any prior notice of an intention to submit for election or re-election.
- (8) The remuneration for the services of any Director shall be fixed by the Board of Directors but subject to any cap determined by the unitholders of the Trust.
- (9) Where a Director is called upon to perform extra services or to make any special exertions in going or residing abroad or otherwise for the

CONSTITUTION OF
SYDNEY AIRPORT HOLDINGS LIMITED
ACN 075 295 760

Company, the Company may remunerate him, if the Director performs such extra services, by payment of a fixed sum determined by the Directors and that remuneration may be either in addition to or in substitution for his share in the remuneration provided for in sub- clause (8) of this Clause.

- (8) A Director shall in addition to his remuneration as aforesaid be reimbursed out of the funds of the Company such reasonable traveling, accommodation and other expenses as he may incur when traveling to or from meetings of the Directors or when otherwise engaged on the business of the Company.

VACATION OF OFFICE AND CONFLICT OF INTEREST

19. THE office of a Director is automatically vacated if he -
- (1) ceases to be a Director by virtue of, or becomes prohibited from being a Director by reasons of an order made under, the Law;
 - (2) becomes bankrupt or insolvent or makes an arrangement or composition with creditors of his joint or separate estate generally;
 - (3) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law relating to mental health;
 - (4) resign his office by notice in writing to the Company or refuses to act;
or
 - (5) is removed from office by a resolution of the Company.
20. (1) A Director may vote in respect of a contract in which he has directly or indirectly a personal material interest.
- (2) Despite having a personal material interest in any contract, a Director may participate in the execution of any document evidencing or connected with the contract, whether by signing, sealing or otherwise.
- (3) A Director may, notwithstanding his office as such and the fiduciary relationship thereby established -
- (a) hold an office or place of profit (except that of Auditor) under the Company or under any body corporate in which the Company is a member or otherwise interested;

CONSTITUTION OF
SYDNEY AIRPORT HOLDINGS LIMITED
ACN 075 295 760

- (b) enter into a contract with the Company as vendor, purchaser or otherwise and participate in any association, institution, fund, trust, scheme or convenience for past or present employees or Directors of the Company, a related corporation or any of their respective predecessors in business or their dependants or persons connected with them; and
 - (c) retain for his own benefit any profit arising from any such office, place of profit or contract and any pension, allowance or other benefit received by reason of such participation.
- (4) A Director is authorised to act in the best interests of a holding company.
- (5) A contract entered into by or on behalf of the Company is not void or voidable by reason only that a Director is in any way directly or indirectly interested therein.
- (6) In this Clause, where the context admits, "contract" includes an arrangement and a proposed contract or arrangement.
21. IF any Director holds in trust for the Company any shares or securities in any other company and qualifies by reason of such holding to become a Director of such other company, he may retain all or so much of the remuneration received by him for acting as such Director for such period or periods as the Company in general meeting resolves, but until resolved by the Company he shall account to the Company for all such remuneration received by him.

POWERS OF DIRECTORS

22. THE management of the business of the Company is vested in the Directors and they may exercise all such powers and do all such acts and things which are not by this Constitution or by statute directed or required to be exercised or done by the Company in general meeting but subject nevertheless to the provisions of the Law and of this Constitution and to any regulations not being inconsistent with this Constitution made by the Company in general meeting but a regulation made by the Company in general meeting may not invalidate a prior act of the Directors.
- 22A. The Directors:
- (1) must not take any action in relation to any Personal Matters (including waiving or agreeing to amend or terminate any rights relating to Personal Matters) without the prior approval in writing of

CONSTITUTION OF
SYDNEY AIRPORT HOLDINGS LIMITED
ACN 075 295 760

members holding more than 50% of the issued shares in the capital of the Company; and

- (2) in respect of any Personal Matters, must take any action which they are directed to take by a direction in writing from members holding more than 50% of the issued shares in the capital of the Company.

PROCEEDINGS OF DIRECTORS

23. (1) THE Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings and proceedings as they think fit. The Directors may conduct Board meetings by telephone or other instantaneous means of conferring for the dispatch of business allowing each person to hear and be heard by each other person present, without a Director being in the physical presence of another Director or other Directors, including, without limitation:
- (a) video;
 - (b) telephone;
 - (c) electronic mail; or
 - (d) a combination of any of the above technologies.
- (2) Where the Directors are not all in attendance at one place and are holding a meeting using technology and each Director can communicate with the other Directors:
- (a) the participating Directors are, for the purpose of every provision of this Constitution concerning meetings of the Directors, taken to be assembled together at a meeting and to be present at that meeting; and
 - (b) all proceedings of those Directors conducted in that manner are as valid and effective as if conducted at a meeting at which all of them were physically present in the one location.
- (3) Until otherwise determined by the Directors two Directors present in person are a quorum.
- (4) An interested Director shall be counted in a quorum notwithstanding his interest.

CONSTITUTION OF
SYDNEY AIRPORT HOLDINGS LIMITED
ACN 075 295 760

- (5) Notice of meeting of the Directors may be given by mail (electronic or otherwise), personal delivery or facsimile transmission to the usual place of business or residence of the Director or at any other address given to the Secretary by the Director or by any technology agreed by all the Directors.
24. THE Directors may elect a Chairman and determine the period during which he is to hold office but if no Chairman is elected or if at any meeting the Chairman is not present at the time appointed for holding the same the Directors present shall choose one of their number to be Chairman of the meeting.
25. QUESTIONS arising at a meeting of the Directors shall be decided by a majority of votes and in the case of an equality of votes the Chairman of the meeting has a casting vote.
26. SUBJECT to the Law, a resolution in writing signed by the majority of the Directors of the Company or by the majority of the Directors who are for the time being in Australia and in either case not being less than the quorum prescribed for meetings of the Directors is as valid and effectual as if it had been passed at a meeting of the Directors duly called and constituted and may consist of several documents in like form each signed by one or more of the Directors. For the purposes of this Clause 26, references to *Directors* includes any Alternate Director appointed by a Director who is not available to sign the document or is otherwise unable to sign the document within a reasonable time, but does not include any other Alternate Director. A facsimile transmission or other document produced by mechanical or electronic means under the name of a Director with the Director's authority is considered a document in writing signed by the Director and is deemed to be signed when received in legible form.
27. ALL acts of the Directors or a person acting as a Director are valid notwithstanding that it is afterwards discovered that there was some defect in the appointment of them or any of them or that they or any of them were disqualified or had vacated office.

ALTERNATE DIRECTORS

28. (1) SUBJECT to the Law, a Director may, in writing appoint a person approved by a majority of the other Directors to act as an Alternate Director in his place whether for a stated period or periods or until the happening of a specified event or from time to time.
- (2) An Alternate Director -

CONSTITUTION OF
SYDNEY AIRPORT HOLDINGS LIMITED
ACN 075 295 760

- (a) may be removed or suspended from office by notice in writing from the Director by whom he was appointed;
- (b) subject to this Constitution is entitled to receive notice of meetings of the Directors and to attend and vote thereat if the Director by whom he was appointed is not present and, where he is also a Director in his own right or Alternate Director for another Director as well, to have a separate vote on behalf of the Director he is representing in addition to his own or that other Director's vote;
- (c) may exercise all the powers except the power to appoint an Alternate Director and, subject to the Law, perform all the duties of the Director by whom he was appointed insofar as the latter has not exercised or performed them;
- (d) automatically ceases to be an Alternate Director if the Director by whom he was appointed ceases to be a Director;
- (e) whilst acting as a Director is responsible to the Company for his own acts and defaults and the Director by whom he was appointed is not responsible therefor;
- (f) is not entitled to receive any remuneration from the Company as a Director except for any special services which in the opinion of the Directors are outside the scope of the ordinary duties of a Director; and
- (g) shall not be taken into account separately from the Director by whom he was appointed in determining the number of Directors.

COMMITTEES

- 29. (1) The Directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit. Any committee so formed must in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the Directors.
- (2) A committee may elect a Chairman of its meetings. If no such Chairman is elected, or if at any meeting the Chairman is not present within 10 minutes of the appointed time, the members present may choose one of their number to be Chairman of the meeting.

CONSTITUTION OF
SYDNEY AIRPORT HOLDINGS LIMITED
ACN 075 295 760

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- (3) A committee may meet and adjourn as it thinks proper. Questions arising at any meeting will be determined by a majority of votes of members present, and in the case of an equality of votes the Chairman of the committee will have the second or casting vote.

CHEQUES AND OTHER NEGOTIABLE INSTRUMENTS

30. ALL cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for money paid to the Company, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner as the Directors from time to time determine.

SECRETARY

31. THE Directors shall appoint at least one Secretary and may remove him and may appoint a person as an acting Secretary or otherwise to perform all or any of the duties of a secretary and remove a person so appointed.

OTHER OFFICERS

- 31A (1) The Directors may from time to time:
- (a) create any other position or positions in the Company with the powers and responsibilities as the Directors may from time to time confer; and
 - (b) appoint any person, whether or not a Director, to any position or positions created under Clause 31A(1)(a).
- (2) The Directors may at any time terminate the appointment of a person holding a position created under Clause 31A(1)(a) and may abolish the position.

COMMON SEAL

32. (1) THE Company may have a common seal and may have a duplicate common seal which shall be used by the Company as determined by the Directors.
- (2) The Directors shall provide for the safe custody of all seals in such manner as they think fit.

CONSTITUTION OF
SYDNEY AIRPORT HOLDINGS LIMITED
ACN 075 295 760

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33. (1) NEITHER the common seal nor duplicate common seal shall be affixed to a document except pursuant to the authority of the Directors.
- (2) Every document to which the common seal or duplicate common seal is affixed shall be signed by a Director and countersigned by the Secretary or a second Director or some other person appointed generally or in a particular case by the Directors for that purpose.

RESERVE

34. (1) THE Directors may -
- (a) before declaring a dividend set aside out of the profits of the Company such sums as they think fit as reserves to meet contingencies or for equalising dividends or for special dividends or for repairing, improving or maintaining any of the property of the Company or for such other purposes as they think conducive to the interests of the Company; and
- (b) invest the several sums so set aside upon such investments as they think fit and deal with and vary those investments and dispose of all or any part thereof for the benefit of the Company and divide the reserves into such special reserves as they think fit and employ the reserves or any part thereof in the business of the Company without being bound to keep the same separate from the other assets.
- (2) The Directors may also without placing the same to reserve carry forward any profits which they think it prudent not to divide.

DIVIDENDS

35. (1) SUBJECT to this Constitution and the rights of the holders of shares with any special, preferential or qualified rights attached thereto, the profits of the Company which the Directors determine to distribute by way of dividend shall be applied in payment of dividends upon the shares in proportion to the amounts paid thereon respectively.
- (2) All dividends shall be apportioned and paid proportionately to the amounts paid on the shares during any portion or portions of the period in respect of which the dividend is paid but where the conditions of issue of a share provide that it shall rank for dividend as from a particular date that share ranks for dividend accordingly.

CONSTITUTION OF
SYDNEY AIRPORT HOLDINGS LIMITED
ACN 075 295 760

36. (1) The Directors may fix the amount, time for payment and the method for payment of a dividend. The method for payment of a dividend may include the payment of cash, the issue of shares, the grant of options and the transfer of assets, including shares or other securities in another body corporate (or any combination of them). Notice of the declaration or payment may be given to members by advertisement or otherwise as the Directors determine.
- (2) A dividend does not bear interest as against the Company.
- (3) A declaration by the Directors as to the amount of the profits available for dividend is conclusive and binding on all members.

CAPITALISATION OF PROFITS

37. (1) THE Directors when determining that a dividend is payable or paying an interim dividend may resolve that the dividend be paid wholly or in part by the distribution of specific assets and in particular of paid up shares or debentures or paid up shares or debentures of any other body corporate or in any one or more of those ways.
- (2) The Directors may resolve that any moneys, investments or other assets forming part of the undivided profits of the Company or standing to the credit of a reserve or in the hands of the Company and available for dividend be capitalised and distributed among such of the members as would be entitled to receive the same if distributed by way of dividend and in the same proportions on the basis that they become entitled thereto as capital and that all or any part of the capitalised fund be applied on behalf of those members in paying up in full any unissued shares or debentures (which shall be distributed accordingly) or in or towards payment of the uncalled liability on any issued shares or debentures and that distribution or payment shall be accepted by those members in full satisfaction of their interest in the capitalised fund.
- (3) For the purpose of giving effect to a resolution under this Clause the Directors may settle any difficulty which arises as to the distribution or payment as they think fit and in particular may issue fractional certificates, fix the value for distribution of any specific assets, determine that cash payments be made to any members on the basis of the value so fixed or that fractions of 50 cents or of a lesser amount be disregarded in order to adjust the rights of all parties and

CONSTITUTION OF
SYDNEY AIRPORT HOLDINGS LIMITED
ACN 075 295 760

may vest any property in trustees upon such trusts for the persons entitled to the dividend or capitalised fund as they think fit.

ACCOUNTS AND AUDIT

38. THE Directors shall ensure that the Company observes the requirements of the Law as to accounts and audit.

WINDING UP

39. (1) IF the Company is wound up the assets available for distribution among the members shall be distributed, as nearly as possible, to the members in proportion to the number of shares held by them respectively.
- (2) This Clause does not add to or detract from the rights of the holders of preference shares or other shares issued on special terms and conditions.
40. ON a members' voluntary winding up a commission or fee shall not be paid by the Company to a liquidator except with the sanction of a general meeting specifying the commission or fee proposed to be paid.
41. WHEN the Company is wound up the liquidator may with the sanction of a special resolution -
- (1) distribute the whole or any part of the Company's assets (whether consisting of property of the same kind or not) in specie among some or all of the members and for that purpose set such value as he deems fair upon the property so distributed and determine how the distribution is to be carried out as between different members or different classes of members; and
- (2) vest the whole or any part of the Company's assets (whether consisting of property of the same kind or not) in trustees upon such trusts for the benefit of some or all of the members or some or all of any class of members as are sanctioned by the special resolution,

but a member shall not be compelled to accept any shares in a body corporate or other securities in respect of which there is a liability.

CONSTITUTION OF
SYDNEY AIRPORT HOLDINGS LIMITED
ACN 075 295 760

INDEMNITY AND INSURANCE
Indemnity of officers

- 42(1) Every person who is or has been:
- (a) a director of the Company or of a wholly-owned subsidiary of the Company; or
 - (b) a secretary of the Company or of a wholly-owned subsidiary of the Company;

is entitled to be indemnified out of the property of the Company against:

- (c) every liability incurred by the person in that capacity (except a liability for legal costs); and
- (d) all legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity,

unless:

- (e) the liability is owed to the Company or to a related body corporate;
- (f) the liability is for a pecuniary penalty order under section 1317G of the Law or a compensation order under section 1317H of the Law;
- (g) the liability is owed to someone other than the Company or a related body corporate and did not arise out of conduct in good faith;
- (h) the legal costs are incurred:
 - (i) in defending or resisting proceedings in which the person is found to have a liability for which they could not be indemnified because of sub-clause 42(1)(e), (f) or (g); or
 - (ii) in defending or resisting criminal proceedings in which the person is found guilty; or
 - (iii) in defending or resisting proceedings brought by the

CONSTITUTION OF
SYDNEY AIRPORT HOLDINGS LIMITED
ACN 075 295 760

Australian Securities and Investments Commission or a liquidator for a court order if the grounds for making the order are found by the court to have been established (except in responding to actions taken by the Australian Securities and Investments Commission or a liquidator as part of an investigation before commencing proceedings for the court order); or

(iv) in connection with proceedings for relief to the person under the Law in which the court denies the relief;

- (i) the Company is forbidden by statute to indemnify the person against the liability or legal costs; or
- (j) an indemnity by the Company of the person against the liability or legal costs would, if given, be made void by statute.

For the purposes of sub-clause 42(1)(h), the outcome of proceedings is the outcome of the proceedings and any appeal in relation to the proceedings.

For the purpose of this sub-clause 42, “statute” means a law made by an Australian parliament including State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them.

Insurance

- (42)(2) The Company may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been a director, secretary or other officer of the Company or of a wholly-owned subsidiary against a liability incurred by the person in that capacity, including a liability for legal costs, unless:
- (a) the Company is forbidden by statute to pay or agree to pay the premium; or
 - (b) the contract would, if the Company paid the premium, be made void by statute.
