



Constitution

Energy & Water Ombudsman (NSW) Limited

Constitution

Energy & Water Ombudsman (NSW) Ltd

Contents

<u>1.</u>	<u>INTRODUCTION</u>	<u>2</u>
<u>2.</u>	<u>COMPANY LIMITED BY GUARANTEE</u>	<u>4</u>
<u>3.</u>	<u>INCOME AND PROPERTY OF EWON</u>	<u>4</u>
<u>4.</u>	<u>APPLICATION FOR MEMBERSHIP</u>	<u>4</u>
<u>5.</u>	<u>OBLIGATIONS OF MEMBERS</u>	<u>5</u>
<u>6.</u>	<u>MEMBER FEES AND CHARGES</u>	<u>5</u>
<u>7.</u>	<u>TERMINATION OF MEMBERSHIP</u>	<u>6</u>
<u>8.</u>	<u>CONVENING GENERAL MEETINGS</u>	<u>6</u>
<u>9.</u>	<u>PROCEEDINGS AT GENERAL MEETINGS</u>	<u>6</u>
<u>10.</u>	<u>MEMBERSHIP OF THE BOARD</u>	<u>7</u>
<u>11.</u>	<u>RESPONSIBILITIES OF THE BOARD</u>	<u>10</u>
<u>12.</u>	<u>PROCEEDINGS OF THE BOARD</u>	<u>11</u>
<u>13.</u>	<u>COMPANY SECRETARY</u>	<u>12</u>
<u>14.</u>	<u>COMMON SEAL</u>	<u>12</u>
<u>15.</u>	<u>APPOINTMENT AND REMOVAL OF THE OMBUDSMAN</u>	<u>12</u>
<u>16.</u>	<u>RESPONSIBILITIES OF THE OMBUDSMAN</u>	<u>12</u>
<u>17.</u>	<u>CONSULTATIVE COUNCIL MEETINGS</u>	<u>13</u>
<u>18.</u>	<u>INDEMNITY</u>	<u>13</u>
<u>19.</u>	<u>NOTICES</u>	<u>14</u>
<u>20.</u>	<u>REVIEW OF EWON</u>	<u>14</u>
<u>21.</u>	<u>CHANGES TO THE CHARTER AND THE CONSTITUTION</u>	<u>14</u>
<u>22.</u>	<u>DISTRIBUTION OF ASSETS ON WINDING-UP</u>	<u>15</u>

1. Introduction

1.1 EWON's objects are:

- a) to provide and promote, in accordance with the Charter, an independent complaints handling service for Energy or Water Services that is available to Complainants;
- b) to assist in the reduction and avoidance of Complaints; and
- c) to do anything incidental to those purposes.

1.2 In this Constitution, unless the context otherwise requires the following expressions have the following meanings:

"Adoption Date" means 1 July 2012;

"Board" means EWON Board constituted in accordance with Clause 10;

"Board Chair" means the Chair of the Board from time to time;

"Charter" means the Charter of EWON as amended from time to time in accordance with this Constitution;

"Community Director" means a Director who is appointed to be a Community Director for the purposes of Clause 10.1c);

"Complaint" means an expression of dissatisfaction by a Complainant about Energy or Water Services and includes:

- a) complaints by consumers of Energy or Water Services about issues relating to marketing, sales, contracts, billing, credit and payment services, disconnection, service restrictions and customer service issues; and
- b) complaints by other persons directly affected by the provision or supply of Energy or Water Services or the manner in which the Member has carried on its business of providing Energy or Water Services;

"Complainant" means a person, club, incorporated body or other entity making a Complaint to the Scheme;

"Consultative Council meeting" means a meeting of stakeholders held in accordance with Clause 17;

"Corporations Act" means the Corporations Act 2001;

"Council" means the Council of EWON in existence immediately prior to the Adoption Date in accordance with EWON's Articles of Association in force at that date;

"CTTT" means New South Wales Consumer, Trader and Tenancy Tribunal General Division;

"Director" means a member of the Board from time to time;

“Energy or Water Services” means:

- a) the product or service provided to satisfy an energy demand or need in New South Wales and includes the transmission, distribution, connection, supply and retailing of the energy source; and/or
- b) the supply in New South Wales of water, sewerage or stormwater services to supply a demand or need of customers and includes distribution, connection to a water supply system, sewerage system or stormwater system, but does not include the discharge of trade wastewater to a sewer, and

commercial arrangements associated with these activities;

“EWON” means Energy & Water Ombudsman (NSW) Limited;

“EWON Binding Decision” means an EWON decision made in accordance with paragraph 11 of the Charter that has been accepted by the Complainant;

“Industry Director” means a Director who is appointed to be an Industry Director for the purposes of Clause 10.1b);

“Member” means each individual, company or organisation that has applied and been accepted as a Member of EWON and has met all application requirements including agreeing to contribute to the property of EWON in accordance with Clause 2.2 in the event of a winding up of EWON;

“Membership Agreement” means the agreement entered into by EWON and a Member that specifies the terms of participation in EWON;

“Monetary Limit” means the maximum amount that EWON is able to award where an EWON Binding Decision is made, this maximum amount being equal to the monetary limit applicable to the CTTT (plus GST if GST applies) or, for a particular Complaint if the Member has so agreed, a larger amount but not exceeding \$50,000;

“month” means calendar month;

“Ombudsman” means the Energy & Water Ombudsman NSW appointed in accordance with Clause 15;

“Schedule of Member Fees and Levies” means the schedule that is set by the Board and reviewed from time to time and specifies the fees, levies and other payments to be paid by Members to EWON for the complaints handling and other services provided by EWON;

“Secretary” means the Company Secretary appointed in accordance with Clause 13.

“Special Resolution” has the meaning given to that term in the Corporations Act.

1.3 In this Constitution:

- a) headings do not affect their construction or interpretation;
- b) the singular includes the plural unless expressed otherwise; and

- c) a reference to a statute includes regulations and other statutory instruments under it and amendments or replacements of any of them.

1.4 The provisions of the Corporations Act that apply as replaceable rules are displaced by this Constitution and accordingly do not apply to EWON.

2. Company limited by guarantee

2.1 EWON is a company limited by guarantee.

2.2 If EWON is wound up during the currency of the Member's membership or within one year of its membership ceasing, the Member undertakes to contribute to the property of EWON for:

- a) payment of EWON's debts and liabilities contracted before the Member's membership ceased;
- b) the costs, charges and expenses of winding up;
- c) an adjustment of the rights of contributors among themselves; and
- d) such other amounts as may be required, provided any such amount shall not exceed \$100.00.

2.3 The rights and privileges of a Member are not capable of transfer to another person.

3. Income and Property of EWON

3.1 The whole of the income and property of EWON must be used solely to further the objects of EWON as set out in this Constitution and no part shall be paid or transferred directly or indirectly to the Members by way of dividend, bonus or otherwise.

3.2 Notwithstanding Clause 3.1, EWON may make a payment to any Member in return for any goods supplied or services rendered in the ordinary course of business.

4. Application for Membership

4.1 A provider of Energy or Water Services may apply in writing to EWON to become a Member by completing and signing EWON's application documentation, including the Membership Agreement, and fulfilling any other application requirements.

4.2 EWON must accept an application where the applicant has fulfilled all application requirements as published by EWON, unless the Board is not satisfied that the applicant is willing and able to meet the obligations of Members. EWON is under no obligation to accept an application where the Board is not so satisfied.

4.3 An applicant's participation in EWON will commence from the date of EWON's approval of the applicant's application or, if later, the date on which the Member completes all application requirements.

4.4 EWON must maintain a public register of Members.

5. Obligations of Members

5.1 Each Member:

- a) must at all times comply with this Constitution, the Charter and the Membership Agreement entered into by the Member and EWON;
- b) must operate a bona fide internal complaints handling service in relation to its Energy or Water Services for the benefit of Complainants and publicise to users of their Energy or Water Services the availability of that service;
- c) must inform consumers of their Energy or Water Services that EWON is available to provide them with a free complaints resolution service;
- d) must appoint a contact person for EWON and provide EWON with the name and contact details of that person and any replacement contact person appointed from time to time;
- e) must comply with any EWON Binding Decision that finds that the Member should undertake remedial action;
- f) consents to EWON making public:
 - i) any failure by the Member to comply in whole or in part with an EWON Binding Decision; or
 - ii) the termination of the Member's participation in EWON; and
- g) consents to the provision by EWON to a government Minister or regulator of any information concerning the Member.

6. Member Fees and Charges

- 6.1 A Member agrees to pay EWON any fees or other charges levied by EWON on the Member. EWON will calculate these in accordance with the Schedule of Member Fees and Levies set by the Board and revised from time to time.
- 6.2 Where EWON needs information from the Member about its business in order to calculate any levy or other charge, EWON may request the Member to provide information that is directly relevant and reasonably required by EWON and the Member must promptly provide and certify that information as requested by EWON. EWON's calculation of the amount of any levy or other charge payable by the Member will, in the absence of manifest error, be final and binding upon the Member.
- 6.3 EWON may invoice a Member for a fee or charge at the time and in the manner it considers appropriate, for example, in advance, in arrears, by instalments or, where the fee is referable to EWON's receipt and consideration of a Complaint, at a time that is proximate to the Complaint. Where a fee is levied in advance, EWON may estimate the fee payable by a Member for the period of time to which the fee is referable and then make any necessary adjustment following the end of that period.
- 6.4 A Member must make payment to EWON within the timeframe specified in the Schedule of Member Fees and Levies for each fee or charge or, if no timeframe is specified there, not later than 30 days after receipt of an invoice from EWON requesting payment of the amount. If payment is made after the due date, EWON may charge interest at the rate of

interest equal to the Reserve Bank Target Cash Rate as at the due date plus 2%.

7. Termination of Membership

- 7.1 A Member may terminate their participation in EWON by giving EWON at least 12 months' written notice. The termination will take effect upon expiry of that notice.
- 7.2 EWON may, by written notice to the Member at any time, immediately terminate their participation if, in the opinion of the Board, the Member:
- a) has not paid any fee or charge invoiced by EWON pursuant to Clause 6.4 within 3 months of the date of the invoice;
 - b) breaches, or fails to perform, any obligation of the Member under the Constitution, the Charter or its Membership Agreement; or
 - c) acts in a way that brings the Member or EWON into disrepute.
- 7.3 Termination of participation, whether by the Member at the expiry of notice in accordance with Clause 7.1 or by EWON giving notice in accordance with Clause 7.2:
- a) does not entitle the Member to repayment of the whole or any part of any fee or charge previously paid by it to EWON;
 - b) is without prejudice to the Member's liability to pay any fee or charge which has become due and payable to EWON; and
 - c) is without prejudice to the Member's obligations (including to pay fees or charges to EWON) in respect of any Complaint made or referred to the Ombudsman before the date of termination of participation.
- 7.4 Clause 7.3 survives the termination of the Member's participation in EWON.

8. Convening General Meetings

- 8.1 Annual general meetings are to be held in accordance with the Corporations Act.
- 8.2 The Board may, when it thinks fit, convene a general meeting and must do so if required under the Corporations Act.
- 8.3 Notice of a general meeting must be given in accordance with the Corporations Act.
- 8.4 The Ombudsman is entitled to attend a general meeting of Members. The Board may also invite other people to attend and speak at a general meeting.

9. Proceedings at General Meetings

- 9.1 A Member may attend a general meeting and vote on resolutions put at the general meeting in person, by proxy or attorney or, in the case of a Member that is a body corporate, by representative.
- 9.2 A general meeting must be chaired by the Board Chair or, in that person's absence, by a

person chosen by the Directors present at the general meeting.

- 9.3 In order to have a quorum at a general meeting, there must be
- a) at least 30% of Members present or represented at the meeting; or
 - b) In the case of an adjourned meeting – at least 5 Members present or represented at the meeting.

A Member whose right to vote is suspended in accordance with Clause 9.10 must not be counted for the purposes of determining whether a quorum exists.

- 9.4 No business may be transacted at a general meeting unless there is a quorum of Members at the time when the meeting proceeds to business. If within 30 minutes of the time appointed for the general meeting, there is not a quorum of Members, the meeting is terminated or adjourned as the chair of the general meeting determines.
- 9.5 Only unfinished business is to be transacted at a general meeting resumed after an adjournment.
- 9.6 A resolution put to the vote of the general meeting must be decided on a show of hands of the Members present or represented unless a poll is (before or on the declaration of the result of the show of hands) demanded:
- a) by the Chair of the general meeting; or
 - b) by at least two Members having the right to vote at the general meeting.
- 9.7 For all resolutions put to the vote of the general meeting whether on a show of hands or a poll, each Member present or represented at the general meeting is, subject to Clause 9.10, entitled to cast one vote. Unless the resolution is a Special Resolution as defined in the Corporations Act, the resolution is carried if there are more votes in favour of the resolution than against the resolution.
- 9.8 Unless a poll is properly demanded, a declaration of the Chair of the meeting that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the minutes of the proceedings of the general meeting, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against a resolution.
- 9.9 A poll is taken in the manner the Chair of the general meeting directs. The result of a poll is a resolution of the general meeting at which the poll is taken.
- 9.10 A Member's right to vote is suspended if and for so long as the Member:
- a) is in default in payment of a fee or charge due to EWON;
 - b) has a liquidator, provisional liquidator, receiver, manager or administrator appointed;
 - c) enters into any composition with or scheme or arrangement with creditors; or
 - d) is otherwise dealt with under insolvency laws.

10. Membership of the Board

- 10.1 The Board comprises:
- a) an independent Board Chair;

- b) 5 Industry Directors who have experience in either the energy industry or the water industry; and
- c) 5 Community Directors.

Board Chair

- 10.2 The Board (including the retiring Board Chair) must appoint a person to be a Director and the independent Board Chair.
- 10.3 The Board Chair must not have a material interest or an existing association or relationship that conflicts with his or her duties as Board Chair.
- 10.4 In appointing the Board Chair, the Board must consider past associations or relationships and satisfy itself that they do not present any significant conflict to the role of Board Chair.
- 10.5 The Board Chair holds office for a maximum period of three years from the date of appointment, and is eligible for re-appointment for a maximum of two further terms.
- 10.6 If the Board Chair is unavailable, the Board may appoint a Director to be the Acting Chair for all or part of the time the Board Chair is unavailable.

Industry Directors

- 10.7 The Industry Directors are elected by the Members. Except for:
 - a) a retiring Industry Director (whether previously elected by the Members or appointed by the Board to fill a casual vacancy) who wishes to stand for election in accordance with Clause 10.10; or
 - b) a person who is nominated by the Board for election,
a person is not eligible for election as an Industry Director unless a consent to nomination, that has been signed by the person, has been given to EWON at least 45 business days before the general meeting.
- 10.8 At the third annual general meeting after the Adoption Date and at each annual general meeting after that, one Industry Director must retire (in addition to any casual vacancy or a Board appointed Industry Director ceasing office in accordance with Clause 10.9). The Industry Director to retire is the one whose current term in office commenced earliest of the Industry Directors. If, however, two or more Industry Directors were appointed on that day, those Industry Directors must either agree or determine by ballot who is to retire.
- 10.9 Notwithstanding Clause 10.7, if an Industry Director ceases to hold office in accordance with Clause 10.15, the Board may appoint a replacement Industry Director to hold office until the next annual general meeting.
- 10.10A retiring Industry Director (whether previously elected by the Members or appointed by the Board under Clause 10.9 to fill a casual vacancy) may seek a further term as Industry Director by standing for election.

Community Directors

- 10.11 The Community Directors are appointed by the Board (including continuing and retiring Community Directors). A person appointed to be a Community Director must have experience in and knowledge about consumer and/or small business interests relating to

any aspect of the complaints handling service provided by EWON. The Community Directors are appointed for a maximum period of three years from the date of appointment, and are eligible for re-appointment for a maximum of two further terms.

Nominations Committee

10.12 The Board must establish a Nominations Committee as a sub-committee of the Board to recommend to the Board suitable persons:

- a) for nomination by the Board to the annual general meeting for election as an Industry Director; and
- b) for appointment to the Board as the Board Chair or a Community Director.

The Nominations Committee must be comprised of the Board Chair and equal numbers of Industry Directors and Community Directors.

10.13 In order to make its recommendations to the Board, the Nominations Committee must:

- a) invite EWON's membership to specify individuals who are interested in seeking election as an Industry Director;
- b) invite community organisations that have been represented at Consultative Council meetings or other relevant parties to nominate individuals who are interested in appointment as Community Directors;
- c) seek to ensure that candidates recommended to the Board for election or appointment to the Board have the knowledge, skills, personal qualities and commitment to add value to the Board; and
- d) be cognisant of the desirability of the Industry Directors between them having experience in the types of industry sectors serviced by EWON and types and size of businesses represented by its Members, for example, by having at least one Industry Director with experience in the energy industry and at least one Industry Director with experience in the water industry.

Transitional Board

10.14 On the Adoption Date, the Directors and members of the Council then in office cease their positions. Notwithstanding Clauses 10.2 to 10.13, the replacement Directors are:

- a) the person who on the Adoption Date ceases office as the Independent Chair of the Council - to be the Board Chair until the close of the second annual general meeting after the Adoption Date (after which he is eligible for re-appointment in accordance with Clause 10.2);
- b) 5 of the Directors in office immediately prior to the Adoption Date (to be chosen by agreement of the Directors then in office or otherwise by ballot) – to be the Industry Directors until the close of the second annual general meeting after the Adoption Date at which time all cease to hold office unless elected for a further term at that annual general meeting in which case Clauses 10.8, 10.10 and 10.15 apply; and
- c) the 5 persons who on the Adoption Date cease office as community members of the Council - to be the Community Directors until the close of the second annual general meeting after the Adoption Date (after which they are eligible for re-appointment in

accordance with Clause 10.11).

General

10.15A Director automatically ceases to hold office if he or she:

- a) becomes bankrupt or makes any arrangement or composition with his or her creditors generally;
- b) becomes prohibited from holding the office of director of a company under the Corporations Act;
- c) becomes of unsound mind or a person whose estate is liable to be dealt with in any way under the laws relating to mental health;
- d) has been absent for 3 consecutive meetings without permission of the Board Chair (or in the case of the Board Chair, the majority of the other Directors) from the meetings of the Board held during that period;
- e) is convicted of an indictable offence;
- f) commits any act of dishonesty whether relating to EWON or otherwise or is guilty of serious misconduct or any conduct tending to bring EWON or himself or herself into serious disrepute; or
- g) has been in office, for two or more terms, for a continuous period of 9 years in aggregate (excluding any period of time in office prior to the Adoption Date)

A Director may resign by notice in writing to the Board.

10.16 EWON remunerates the Board Chair and Community Directors on terms decided upon by the Industry Directors. The Board Chair and Community Directors are also entitled to be reimbursed travelling, accommodation and other expenses reasonably and properly incurred by them in connection with the business of the Board. The Industry Directors do not receive either remuneration or expense reimbursement, unless any Industry Director performs a service which in the opinion of the Board is outside the scope of the ordinary duties of a director.

11. Responsibilities of the Board

11.1 In any addition to carrying out their specific responsibilities under the Corporations Act and this Constitution, the Board is responsible for:

- a) approving EWON's corporate plan;
- b) appointing, suspending or removing the Ombudsman in accordance with Clauses 11.2 and 15;
- c) overseeing the performance of the Ombudsman's duties;
- d) reviewing and amending the Schedule of Member Fees and Levies from time to time in accordance with Clause 6.1;
- e) overseeing the financial management of EWON including establishing financial delegations, approving EWON's annual budget and overseeing EWON's financial reporting;

- f) approving any loan facility entered into by EWON;
- g) overseeing EWON's risk management arrangements;
- h) overseeing the stakeholder liaison plan;
- i) monitoring the effectiveness of the Charter and this Constitution; and
- j) amending or replacing the Charter in accordance with Clause 21.

11.2 The Board has the power:

- a) to suspend or to remove the Ombudsman at any time in its absolute discretion; and
- b) if the Ombudsman is unable to carry out his or her duties, to appoint a deputy or substitute for the Ombudsman for the period and on the terms the Board thinks fit.

12. Proceedings of the Board

12.1 The Board must meet as necessary to perform the Board's functions but no less regularly than quarterly. Board members may meet together in person or by telephone or video conference and adjourn and otherwise regulate their meetings and carry out their responsibilities as they think fit.

12.2 The Secretary must at the request of a Director convene a meeting of the Board.

12.3 At all meetings of the Board, there must be a quorum of seven Directors present including at least three Industry Directors and three Community Directors. If there are vacancies that reduce the number of Directors so that a quorum cannot be achieved, the continuing Directors may act only for the purpose of filling the Board vacancies.

12.4 Questions arising at a Board meeting, except as set out in Clause 12.5, are to be decided by a majority of votes of Board members present and voting.

12.5 A decision by the Board to:

- a) appoint, remove or suspend the Ombudsman;
- b) amend the Schedule of Member Fees and Levies;
- c) amend or replace the Charter; or
- d) borrow funds,

requires the support of 75% of Directors present and voting including at least two Industry Directors and two Community Directors.

12.6 In addition to his or her deliberative vote, the Board Chair does not have a casting vote.

12.7 A resolution in writing signed or assented to by letter, facsimile or any other electronic written communication or printed message by all the members of the Board (whether on one or more separate documents) has effect as if passed at a meeting of the Board duly convened and held.

12.8 All acts done by the Board are valid, notwithstanding that it is afterwards discovered that there was a defect in the appointment of a Director or that a Director was not qualified to act.

12.9 The Board must cause minutes to be made and signed by the Board Chair:

- a) of the names of members of the Board present at meetings of the Board; and
- b) of proceedings at meetings of the Board.

13. Company Secretary

13.1 The Board must appoint a Company Secretary.

14. Common Seal

14.1 EWON may have a common seal to be used only with the authority of the Board.

15. Appointment and Removal of the Ombudsman

15.1 The Ombudsman is appointed by the Board to hold office for an initial period of three years at the remuneration and on the other terms and conditions of engagement determined by the Board. The Ombudsman may be reappointed at the expiry of any period of office.

15.2 The Ombudsman must not have a material interest or an existing association or relationship that conflicts with his or her duties of Ombudsman.

15.3 In appointing the Ombudsman, the Board must consider past associations or relationships and satisfy itself that they do not present any significant conflict to the role of Ombudsman.

15.4 Without limiting Clause 11.2, the Board will remove the Ombudsman from office if the Ombudsman:

- a) becomes bankrupt or makes any arrangement or composition with his or her creditors generally; or
- b) becomes prohibited from holding the office of director of a company under the Corporations Act;
- c) becomes of unsound mind or a person whose estate is liable to be dealt with in any way under the laws relating to mental health;
- d) is convicted of an indictable offence; or
- e) commits any act of dishonesty whether relating to EWON or otherwise or is guilty of serious misconduct or conduct tending to bring EWON or himself or herself into serious disrepute.

16. Responsibilities of the Ombudsman

16.1 The Ombudsman is responsible for managing the day to day operations of EWON including:

- a) preparing a corporate plan for the Board's consideration;
- b) promoting EWON and its complaints handling service;
- c) providing advice to Members on the development and maintenance of good complaint-handling practices;
- d) the exercise of all of the powers and responsibilities of EWON under the Charter;

- e) developing for the Board's approval a comprehensive stakeholder liaison plan and implementing that plan (including by the convening of Consultative Council meetings);
- f) making recommendations to the Board as to the amendments that should be made to the Charter and this Constitution;
- g) financial management including ensuring that proper financial records are kept, Member fees are collected, EWON liabilities are met when due, an annual budget is prepared for the Board's approval and annual audited financial statements are prepared for the Board's approval; and
- h) staff and resources management.

16.2 The Ombudsman must receive notice of and is entitled to attend and participate in (but not to vote at) every meeting of the Board, except where the Board otherwise decides.

16.3 Subject to the Charter, the Ombudsman may, with the approval of the Board, delegate any of his or her powers and discretions under the Charter to any employee or contractor engaged by EWON. A delegate must exercise their delegated authority in accordance with the Charter and with any directions or restrictions that may from time to time be imposed by the Ombudsman. The exercise by a delegate of a power is valid as if the power were exercised personally by the Ombudsman.

17. Consultative Council meetings

17.1 At least twice per year, EWON must convene a Consultative Council meeting chaired by the Board Chair. A Consultative Council meeting must be a forum open to consumer and small business representatives and to all Members. The purpose of a Consultative Council meeting is:

- a) to provide EWON with an opportunity to update and consult with its key stakeholders;
- b) to provide EWON's key stakeholders with an opportunity to raise issues and to provide their views; and
- c) to contribute to EWON's forward planning.

17.2 The Ombudsman must attend each Consultative Council meeting. At least one Consultative Council meeting each year must be a joint session with the Directors.

17.3 The Ombudsman must ensure that the next Board meeting after a Consultative Council meeting receives a written report that summarises the key issues and views raised by stakeholders.

18. Indemnity

18.1 EWON fully indemnifies each of the Directors, Secretary, Ombudsman, its agents and employees ("indemnified people") against any liabilities they incur in their capacity as indemnified people, notwithstanding any irregularity or informality in their appointment, provided that this indemnity does not extend to protect any of them from any damage or

loss arising out of wilful neglect, default or dishonesty on their part.

19. Notices

- 19.1 A notice may be given by one party to the other party either by serving it personally or by sending it by post, facsimile transmission or email to the other party's current address or, in the case of a Member, the address notified to EWON from time to time.
- 19.2 Where a notice is sent by post, service of the notice is deemed to be effected by properly addressing, prepaying, and posting a letter of notice, and the notice is deemed to have been served two days after the date of its posting.
- 19.3 Where a notice is sent by facsimile transmission or email, service of the notice is deemed to be effected by properly addressing the facsimile transmission or email and the notice is deemed to have been served on the date of its despatch.

20. Review of EWON

- 20.1 If the Monetary Limit for an EWON Binding Decision increases to an amount in excess of \$50,000 as a result of increases in the CTTT jurisdictional limit, the Board must review the Monetary Limit to determine whether the linkage to the CTTT jurisdictional limit continues to be appropriate.
- 20.2 At least every three years, EWON must conduct an independent review of EWON's complaints handling service.
- 20.3 The Board must determine the procedures and timetable to be adopted in the review. The Reviewer/s must ensure that submissions and comments are invited from:
- a) Members;
 - b) relevant industry and consumer associations; and
 - c) any other person or group the Reviewer/s considers appropriate.
- 20.4 The Reviewer/s must prepare and present to the Board a written report of findings and recommendations and may include recommendations about improvements to any aspect of EWON's complaint handling service.
- 20.5 The Reviewer/s report recommendations must be published on EWON's website.
- 20.6 The Board and the Ombudsman must consider and respond to the findings of the Reviewer/s.

21. Changes to the Charter and the Constitution

- 21.1 If the Board wishes to change, modify or replace the Charter or this Constitution, the Board must first take reasonable steps to consult with the Ombudsman, the Members, relevant industry and consumer advocacy organisations and other interested organisations and persons.
- 21.2 If the Board wishes to change:

- a) the definition in the Charter of “Monetary Limit”;
or

- b) paragraph 5 of the Charter,

the Board may only do this if the Members agree to this by Special Resolution and, in the case of a change to the definition in the Charter of “Monetary Limit”, if the Members also agree to make a corresponding modification to the definition of that term in the Constitution. Otherwise, after undertaking consultation in accordance with Clause 21.1, the Board may by resolution passed in accordance with Clause 12.5 decide to modify or replace the Charter.

- 21.3 Modification or repeal of this Constitution requires a Special Resolution of Members in accordance with section 136 of the Corporations Act.

22. Distribution of Assets on Winding-Up

- 22.1 If upon the winding up of EWON, there is property remaining after the satisfaction of all EWON’s debts and liabilities, this property is to be transferred to one or more not for profit organisations selected for that purpose by the Board.