

Constitution of Building Research Association of New Zealand Incorporated

Approved at Special General Meeting 6 November
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Constitution of Building Research Association of New Zealand Incorporated

1. Definitions and interpretation

Definitions

1.1 Unless the context requires otherwise:

Act means the Incorporated Societies Act 2022 and any regulations made under that Act.

Annual General Meeting (AGM) means a meeting of the Members of BRANZ Inc. held once a year convened under this Constitution.

Appointment Panel (Panel) is the Board appointment panel in clause 10.

Board means BRANZ Inc.'s governing body.

Board Appointed Board Member means a member of the Board who has been appointed by the Board.

Board member means a member of the Board, including the Chair.

BRANZ Inc. means the Building Research Association of New Zealand Incorporated.

Bylaws means any policies, charters, codes of conduct, terms of reference, or regulations of BRANZ Inc.

Casual Vacancy is a vacancy which arises on the Board or on the Council when a Board member or Councillor does not serve their full term of office.

Chair means the Board member appointed as Chair of BRANZ Inc. under this Constitution.

Constitution means this Constitution as amended including any schedules to this Constitution.

Contact Details means an electronic address and a telephone number.

Contact Person means a person holding the position of contact person for BRANZ Inc. being the person whom the Registrar can contact when needed.

Council means the Building Research Advisory Council.

Council Appointed Board Member means a member of the Board who has been appointed by the Council.

Councillor means a member of the Council.

General Meeting means an AGM or Special General Meeting (SGM) of BRANZ Inc.

Individual means a natural person.

Member means each person who is a member of BRANZ Inc.

Member Register means the register of Members kept under this Constitution.

Member's Representative means the Individual appointed in accordance with this Constitution by a Member which is not an Individual, to be the Member's representative to exercise its rights of membership.

Minister means the Minister of the Crown responsible for the administration of the Building Research Levy Act 1969.

Notice has the meaning given to it in clause 1.3.

Officer means a Board Member and any natural person occupying a position in BRANZ Inc. that allows the person to exercise significant influence over the management or administration of BRANZ Inc.

Ordinary Resolution means a resolution passed by a majority of votes cast.

Purposes means the purposes of BRANZ Inc. set out in clause 3.1.

Register means the register of incorporated societies established under the Act.

Registrar means the Registrar of Incorporated Societies.

Regulations means regulations made under the Incorporated Societies Act 2022.

SGM or **Special General Meeting** means a meeting of the Members, other than an AGM, called for a specific purpose or purposes.

Special Resolution means a resolution passed by a 75% majority of votes cast.

Working Day has the meaning given to that term under the Legislation Act 2019 and excludes the day observed as the anniversary in Wellington.

Interpretation

1.2 Unless the context otherwise requires:

- (a) reference to a person includes any other entity or association recognised by law and vice versa.
- (b) words referring to the singular include the plural and vice versa.
- (c) a reference to:
 - (i) a person includes their executors and administrators.
 - (ii) **writing** includes words printed, typewritten, or otherwise visibly represented, copied, or reproduced including by email. **Written** has a corresponding meaning.
 - (iii) statutory provisions is to them as amended or re-enacted.
- (d) all periods of time or notice exclude the days on which they are given.
- (e) time is of the essence.

Notices

1.3 Unless specified otherwise in this Constitution any notice or other communication (**Notice**) given under this Constitution must be in writing.

- 1.4 A Notice may be served by email to:
- (a) Members at the email address in their Contact Details;
 - (b) BRANZ Inc. at branz@branz.co.nz.
- 1.5 BRANZ Inc. may change its email address for the purposes of clause 1.4 by giving notice to all Members.
- 1.6 A Notice is deemed served at the time evidenced by the sender's sent email history, unless another party can prove it was not received.

2. Details of BRANZ Inc.

Name

- 2.1 The name of the society is Building Research Association of New Zealand Incorporated (BRANZ Inc.).

3. Purpose and powers

Purpose

- 3.1 The purposes of BRANZ Inc. are to:
- (a) promote and conduct research and scientific work in connection with or related to the building industry;
 - (b) apply, promote and market commercially any product and subject of any building industry research and scientific work in connection with or related to the building industry;
 - (c) encourage the study and understanding of research and scientific work in connection with or related to the building industry.

Capacity and powers

- 3.2 BRANZ Inc. has full capacity, rights, powers and privileges subject to this Constitution and the law.

No personal benefits

- 3.3 All income, benefit, or advantage must be used to advance the purposes of BRANZ Inc.
- 3.4 No Officer or Member is allowed to influence any decision made by BRANZ Inc. in respect of:
- (a) payments or transactions between it and them, their direct family or any associated person.
- 3.5 Any payments made to a Member, person associated with a Member, or Board member or Councillor must:
- (a) be for goods or services that advance the Purposes and must be reasonable and relative to payments that would be made between unrelated parties; or
 - (b) be in accordance with clause 8.7 (if a Board member) or 13.10 (if a Councillor) or

- (c) in respect of a Member who is not a Board member or a Councillor, be in accordance with a Bylaw approved by the Board which must not be inconsistent with this clause 3.
- 3.6 The provisions and effect of clauses 3.3 to 3.5 must not be removed from this Constitution and must be included and implied in any document replacing this Constitution.

Members

4. Members

Membership application

- 4.1 An application for membership must be in the form required by the Board. All applications will be decided by the Board in its discretion or by its delegated committee or Individual. Subject to the Building Research Levy Act 1969 any application may be accepted or declined. An applicant becomes a Member when their application has been accepted and they have paid the required membership fees (if any) and satisfied any other preconditions.

Membership categories

- 4.2 The Members of BRANZ Inc. are:
- (a) incorporated or unincorporated entities or groups involved in the building industry or in any sector determined by the Board to be relevant to the Purposes;
 - (b) persons eligible under the Building Research Levy Act 1969;
 - (c) Board members;
 - (d) Councillors.

Duration of membership

- 4.3 Membership of BRANZ Inc. for persons in the category in clause 4.2(b) is annual and expires on 1 April in each year. The membership requirements as set out in this Constitution must be completed by such persons each year to have their membership of BRANZ Inc. renewed.

Membership consent

- 4.4 A person consents to become a Member:
- (a) if in the category in clause 4.2(a), by submitting the application for membership in the form with any supporting information required by BRANZ Inc.;
 - (b) if in the category in clause 4.2(b), by written application in accordance with the Building Research Levy Act 1969;
 - (c) if a Board member, by signing a consent to be a Member;
 - (d) if a Councillor, by signing a consent to be a Member.

Members rights and obligations

- 4.5 Members acknowledge and agree:
- (a) they are bound by, and will comply with, this Constitution and Bylaws;
 - (b) they are subject to the jurisdiction of BRANZ Inc.;
 - (c) they will promote the interests and Purposes of BRANZ Inc. and not do anything to bring BRANZ Inc into disrepute;
 - (d) they are entitled to rights granted by this Constitution or as determined by the Board;
 - (e) to receive, or continue to receive or exercise Member rights, they must meet all the Member requirements set out in this Constitution and Bylaws or as set by the Board;
 - (f) if they fail to comply, the Board may suspend and/or terminate their membership.

Member's Representative

- 4.6 A Member, which is not an Individual, may appoint an Individual to be the Member's Representative to exercise its rights of membership. The appointment must be made by the appointer by notice in writing addressed to BRANZ Inc. and may be revoked by the appointer in the same manner.

5. Membership fees

- 5.1 The Board will, subject to any restrictions in the Building Research Levy Act 1969, decide:
- (a) any membership and other fees payable by Members;
 - (b) the due date for those fees.
- 5.2 Without being released from the obligation to pay, a Member who does not pay their membership or other fees by the due date has no membership rights, but is still bound by this Constitution. If payment is not made within 60 days of the due date the Board may terminate the Member's membership by Notice to the Member.

6. Suspension and cessation of membership

- 6.1 If a Member is, or may be, in breach of the obligation of a Member, and the Board believes it is in the best interests of BRANZ Inc. to do so, the Board may suspend the Member until final determination of the matter. Before imposing any suspension, the Member must be given notice of the suspension.
- 6.2 Unless otherwise determined by the board, while a Member is suspended the Member is not entitled to:
- (a) attend, speak or vote at a general meeting;
 - (b) any other rights or entitlements as a Member;
 - (c) continue to hold office in any position within BRANZ Inc.

- 6.3 A person ceases to be a Member:
- (a) on death or if a body corporate, on liquidation or if a partnership, on dissolution of the partnership;
 - (b) if in the category in clause 4.2(b), on the expiration of their membership under clause 4.3;
 - (c) by resignation by giving at least 90 days' Notice to the Board;
 - (d) on termination of membership under clause 5.2 or from a dispute resolution process in this Constitution.
- 6.4 A person who ceases to be a Member:
- (a) remains liable to pay all membership and other fees owed to BRANZ Inc.;
 - (b) must return all property of BRANZ Inc. to BRANZ Inc.

7. Member Register

- 7.1 The Board will ensure an up-to-date Member Register is kept and the register must include:
- (a) each Member's name;
 - (b) each Member's Contact Details;
 - (c) the date each person became a Member; and
 - (d) the name of each person who has ceased to be a Member within the previous 7 years and the date on which each person ceased to be a Member.
- 7.2 Members must provide Notice to BRANZ Inc. of any change to the details in clause 7.1.
- 7.3 The Member Register must be updated as soon as practicable after BRANZ Inc. becomes aware of changes of the information recorded in the Member Register.

Board

8. Board: role and composition

Role of the Board

- 8.1 The Board must govern, manage, direct, or supervise the operation and affairs of BRANZ Inc. and the Board has full powers to govern, manage, direct and supervise the management, operation and affairs of BRANZ Inc.
- 8.2 Any Individual appointed by the Board as a director or trustee of entities which are:
- (a) wholly owned entities of BRANZ Inc.; or
 - (b) wholly owned entities of any entity referred to in sub-clause 8.2(a);
- must be a Board member, unless the Board decides otherwise by Special Resolution.

Composition of the Board

- 8.3 The Board will consist of not more than eight persons:
- (a) 5 Council Appointed Board Members; and
 - (b) up to 3 Board Appointed Board Members.
- 8.4 The Board must include a majority of Officers who are Members and/or representatives of body corporates that are Members.

Eligibility

- 8.5 Every Board member must:
- (a) consent in writing to be a Board member and consent in writing to be a Member; and
 - (b) certify in writing that they are not disqualified from being elected, appointed, or holding office as a Board member by this Constitution or under section 47 of the Act;
 - (c) not be an employee of BRANZ Inc. or any of its subsidiaries, and
 - (d) not be a Councillor, but if they are a Councillor and cease the position as a Councillor prior to taking office as a Board member, that is not a breach of this requirement.

Term of office

- 8.6 The term of office for Board members is three years, commencing from the date which they commence their term of appointment under clause 9. A Board member may serve as a Board member for a maximum of three consecutive terms of office. A person who is not eligible to serve on the Board for a full term of 3 years cannot be considered for appointment.

Remuneration and expenses

- 8.7 Board members:
- (a) may be paid any remuneration for their service as a Board member.
 - (b) may receive full reimbursement for all reasonable expenses incurred by that Board member on behalf of BRANZ Inc. when authorised by resolution of the Board.

9. Appointment of Board members

- 9.1 The Council Appointed Board Members are appointed as follows:
- (a) before the AGM the Panel must call for applications for any vacant Council Appointed Board Member positions;
 - (b) applications are made in the form decided by the Panel. Applications must be received by the Panel by the date set by the Panel and if no date is set, at least 60 days before the AGM;
 - (c) the Panel must undertake its responsibilities as set out in clause 10;
 - (d) the Panel must notify the Council of its recommendations of applicants it considers would best suit the vacant positions of Council Appointed Board Members at least 5 days before the AGM;

- (e) the Council must receive the recommendations from the Panel and decide whether to appoint or not appoint the recommended persons as Council Appointed Board Members;
- (f) if the Council does not appoint all persons recommended, the Council must refer the remaining vacancies back to the Panel. It must undertake part or all of its process in clause 10 to make a different recommendation to fill the remaining vacancies;
- (g) the Council must notify the Board not later than 10 Working Days after the AGM of the Council's decision regarding Council Appointed Board Members it has appointed. If a vacancy has been referred back to the Panel under clause 9.1(f) the Council will endeavour to decide any remaining appointments with urgency and notify the Board immediately after that.

9.2 The Board Appointed Board Members are appointed as follows:

- (a) by the Board after following any process it decides to attract and assess applications and make decisions to fill any vacancies in Board Appointed Board Member positions at any time.
- (b) if there are not enough applicants for the number of vacant Board Appointed Board Member positions the Board may co-opt persons to fill the vacant Board member positions at any time.

9.3 The names of any persons appointed by the Board and by the Council to fill vacancies will be announced to Members.

9.4 An applicant for the Board or a Board member may not at any time commence or continue a position as a Board member if they are an employee of BRANZ Inc.

10. **Appointment Panel**

10.1 The Panel comprises of the following people (Panellists):

- (a) three Councillors appointed by the Council being persons who are not seeking to be appointed to the Board;
- (b) one Board member appointed by the Board who is not a person seeking to be appointed to the Board;
- (c) if the Panel requires additional skills, expertise or support, one other person, who may be an independent party if appropriate, may be added by unanimous decision of the Panellists on the Panel;

and the Panel must be diverse and inclusive and as a minimum must always have diversity of gender among its people.

10.2 The chair of the Panel is one of the Panellists from the Panel as decided by the chair of the Council.

10.3 The Panellists on the Panel will remain in office for the period necessary to fulfil their responsibilities in relation to each vacancy of a Board member for which the Panel was established. A person is not eligible to serve on the Panel following the fifth anniversary of their first appointment to the Panel.

- 10.4 The Panel must operate independently of the Board and the Council and is responsible for:
- (a) advertising, identifying, and inviting suitable candidates to apply for appointment as a Council Appointed Board Member;
 - (b) receiving and assessing applications from candidates for appointment, including undertaking due diligence and holding interviews and meetings as it sees fit;
 - (c) recommending to the Council the applicant(s) whom the Panel considers would best suit the vacant position(s).
- 10.5 In determining the persons to be recommended as Council Appointed Board Members, the Panel will do so based on merit and will take into account the following factors about the candidate and the Board as a whole:
- (a) the desire for diversity and inclusion on the Board
 - (b) their prior experience as a director, trustee, officer, or experience in any other governance role;
 - (c) their knowledge of and experience in the building industry and in building research generally;
 - (d) their understanding of the legal, regulatory, fiduciary, and ethical obligations of Board members;
 - (e) the desire for conflicts of interest on the Board to be minimised; and
 - (f) the desire for a wide range of knowledge, skills, and experience on the Board aligned to the strategy and work programme.
- 10.6 No Panellist on the Panel may seek appointment as a Board member while on the Panel.
- 10.7 The Panel will meet as and when required, and in any manner as it thinks fit, including in person and/or by audio link, audiovisual link, or other electronic communication.
- 10.8 The quorum for a meeting of the Panel is one less than its number of Panellists.
- 10.9 A decision of the Panel on the persons to be recommended as Council Appointed Board Members must be a unanimous decision and the Panellists will seek unanimity. A Panellist who abstains from voting because they may have a conflict of interest is disregarded in assessing unanimity. Where unanimity is not achieved the decision is escalated by the chair of the Panel to the Council to decide by Ordinary Resolution.
- 10.10 All information received by the Panel, and its deliberations, must be kept confidential except to the extent required by law.
- 10.11 Any Panellist who considers they may have a conflict of interest in considering the appointment of any candidate, must declare that conflict to the chair. If the chair considers it appropriate to do so, they may require that member to vacate their position on the Panel. If the chair considers they may have a conflict of interest, they must notify the Board and if the Board considers it appropriate to do so, it may require that chair to vacate their position on the Panel.
- 10.12 Any vacancy arising on the Panel will be filled with a replacement Panellist to be appointed by the person or organisation that appointed the Panellist for which the vacancy arises.

- 10.13 The Board may remove any Panellist on the Panel if the Board considers in its sole discretion:
- (a) the Panellist has a conflict of interest which has not been satisfactorily resolved to the satisfaction of the Board; or
 - (b) there are circumstances which may give rise to a question of bias in the Panel's composition and/or process.
- 10.14 Before removing any panellist from the Panel, the Board must:
- (a) notify that Panellist of its proposal to remove them;
 - (b) give that Panellist and the other Panellists the opportunity to be heard on the proposed removal.

11. Board: vacancies, suspension and removal

Casual Vacancy of Board Appointed Board Member

- 11.1 If there is a Casual Vacancy on the Board of a Board Appointed Board Member the remaining Board members may:
- (a) appoint a person of their choice to fill the Casual Vacancy; or
 - (b) leave the Casual Vacancy unfilled.
- 11.2 To maintain the rotation cycle the period served by a person filling a Casual Vacancy appointed under clause 11.1(a) continues any unexpired portion of the Board term of the person they replace.

Casual Vacancy of Council Appointed Board Member

- 11.3 If there is a Casual Vacancy on the Board of a Council Appointed Board Member the Council may appoint a person of its choice to fill the Casual Vacancy or may leave the Casual Vacancy unfilled.
- 11.4 To maintain the rotation cycle the period served by a person filling a Casual Vacancy appointed under clause 11.3 continues any unexpired portion of the Board term of the person they replace.

Suspension of Board member

- 11.5 If a Board member is, or may be, in breach of Board member obligations, or circumstances arise which are of concern to the Board, the remaining Board members may act. By Special Resolution they may suspend the Board member from the Board and set conditions as they require pending determination of the matter. Before imposing any suspension, the Board member must be given notice of the suspension. The Board member who is the subject of the motion to suspend will be counted for the purpose of reaching a quorum and will not participate in the vote on the motion.

Removal of Board member

- 11.6 The Board may, by Special Resolution of the Board, remove any Board member from the Board before the expiry of their term of office if the Board considers that Board member has seriously breached duties under this Constitution or the Act or is no longer suitable to be a

Board member. The Board member who is the subject of the motion will be counted for the purpose of reaching a quorum and will not participate in the vote on the motion.

- 11.7 Before considering a motion for removal, the Board member affected by the motion must be given:
- (a) Notice that a Board meeting is to be held to discuss the motion to remove them and the basis for the motion; and
 - (b) adequate time to prepare a response; and
 - (c) the opportunity prior to the Board meeting to make written submissions; and
 - (d) the opportunity to be heard at the Board meeting.
- 11.8 A person ceases to be a Board member if:
- (a) they resign by delivering a Notice of resignation to the Board;
 - (b) they are removed from office under this Constitution;
 - (c) they cease to meet the eligibility requirements referred to in clause 8.5;
 - (d) they die.

12. Board meetings

- 12.1 Board meetings may be called at any time by the Chair or by written request by 4 Board members, but generally the Board will meet quarterly.
- 12.2 Board meetings must be held by a quorum of Board members:
- (a) being assembled together at the time and place appointed for the meeting; or
 - (b) participating in the meeting by means of audio link, audiovisual link, or other electronic communication; or
 - (c) by a combination of both of the methods described in sub-clauses 12.2(a) and 12.2(b).
- 12.3 Except to the extent specified in this Constitution, the Board will regulate its own procedure.

Quorum

- 12.4 The quorum for a Board meeting is 60% of the Board members.

Chair

- 12.5 At its first meeting following an AGM, the Board must elect a Chair.
- 12.6 The role of the Chair is to chair meetings of the Board. If the Chair is unavailable, another Board member must be appointed by the Board to undertake the Chair's role during the period of unavailability.

Voting

- 12.7 Each Board member has one vote. Voting is by voices, or on request of any Board member by a show of hands or by a ballot. Proxy and postal votes are not permitted. Voting by electronic means is permitted.

Resolution in writing

- 12.8 A resolution in writing signed or consented to by email or other electronic means by the required majority of Board members will be valid as if it had been passed at a meeting of the Board. Any resolution may consist of several documents in the same form each signed by one or more Board members.

Council

13. Building Research Advisory Council

- 13.1 The Council will consist of up to 20 Individuals nominated and selected as follows:
- (a) four nominated by the construction sector being:
 - (i) two nominated by the primary construction sector members being:
 - (1) one nominated by Registered Masters Builders Association of New Zealand Incorporated;
 - (2) one nominated by New Zealand Certified Builders Association Incorporated;
 - (ii) two nominated by the specialist construction trades sector being:
 - (1) one nominated by New Zealand Specialist Trade Contractors Federation Incorporated;
 - (2) one nominated by Civil Contractors New Zealand Incorporated.
 - (b) three nominated by the design and engineering sector being:
 - (i) one nominated by New Zealand Institute of Architects Incorporated; and
 - (ii) one nominated by Architectural Designers New Zealand Incorporated; and
 - (iii) one nominated by The Institution of Professional Engineers New Zealand Incorporated (trading as Engineering New Zealand/Te Ao Rangahau).
 - (c) three nominated by the regulatory sector being:
 - (i) one nominated by the Minister or if the Minister does not nominate then one nominated by the chief executive officer of the government ministry responsible for building and construction regulation;
 - (ii) one nominated by New Zealand Local Government Association Incorporated from large Building Consent Authorities;
 - (iii) one nominated by New Zealand Local Government Association Incorporated from small Building Consent Authorities.
 - (d) two nominated by the supply chain sector being:
 - (i) one nominated by the Building Industry Federation of New Zealand Incorporated;
 - (ii) one nominated by Business New Zealand Incorporated.

- (e) three nominated by the building owners/users sector being:
 - (i) one nominated by the Property Council of New Zealand Incorporated;
 - (ii) one nominated by Consumer NZ Incorporated;
 - (iii) one nominated by Government Social Housing Provider.
 - (f) up to five co-opted Councillors identified and selected by the Council to provide skills and capabilities aligned to the BRANZ Inc. work programme and future research demands.
- 13.2 An Individual nominated under clause 13.1(a) to 13.1(e) inclusive, or selected by the Council under Clause 13.1(f) is, subject to satisfying the eligibility requirements in clause 13.5 to the satisfaction of Council, appointed to the Council by Ordinary Resolution of the Council. If a nominee or an Individual selected by Council does not satisfy the eligibility requirements in clause 13.5 the nomination or selection is referred to the nominator or Council as the case may be to nominate or select an Individual who does satisfy the eligibility requirements.
- 13.3 The term of office for Councillors is two years, commencing immediately prior to the start of the AGM and ending immediately prior to the start of the AGM two years later unless ending earlier in accordance with this Constitution. A Councillor may serve as a Councillor for a maximum of three consecutive terms of office. The chair of the Council immediately preceding the end of their sixth year on the Council may serve a seventh year.

Casual Vacancy of Councillor

- 13.4 If there is a Casual Vacancy on the Council:
- (a) in a position nominated under clause 13.1(a) to 13.1(e), the person holding the right to nominate may nominate to the Council a replacement to continue the term of the Individual they replace;
 - (b) in a co-opted position nominated under clause 13.1(f), the Council may select a replacement to continue the term of the Individual they replace or may leave the co-opted position vacant; and

subject to the nominated or selected Individual satisfying the eligibility requirements in clause 13.5 to the satisfaction of Council, the nominated or selected Individual is appointed to the Council by Ordinary Resolution of the Council.

Eligibility

- 13.5 Every Councillor must:
- (a) consent in writing to be a Councillor and consent in writing to be a Member; and
 - (b) certify in writing that they are not a person who if they were an officer would be disqualified from being elected, appointed, or holding office under section 47(3) of the Act;
 - (c) not be an employee of BRANZ Inc. or of any of its subsidiaries;
 - (d) not be a Board member provided that if they are a Board member and cease their position as a Board member prior to becoming a Councillor, that is not a breach of this requirement;

- (e) meet any additional skills/capabilities criteria requirements contained in By-laws against which nominations to Council are assessed for approval by the Council.

Suspension of Councillor

- 13.6 If a Councillor is, or may be, in breach of the obligations of a Councillor, or any other circumstances arise in relation to a Councillor which are or may be of concern to the Council, the remaining Councillors may by Special Resolution suspend the Councillor from the Council and set conditions as they require pending determination of the matter. Before imposing any suspension, the Councillor must be given notice of the suspension. The Councillor who is the subject of the motion to suspend will be counted for the purpose of reaching a quorum and will not participate in the vote on the motion.

Removal of Councillor

- 13.7 The Council may, by Special Resolution, remove any Councillor before the expiry of their term of office if the Council considers that Councillor has seriously breached duties under this Constitution or is no longer suitable to be a Councillor. The Councillor who is the subject of the motion will be counted for the purpose of reaching a quorum and will not participate in the vote on the motion.
- 13.8 Before considering a motion for removal, the Councillor affected by the motion must be given:
- (a) Notice that a Council meeting is to be held to discuss the motion to remove them and the basis for the motion; and
 - (b) adequate time to prepare a response; and
 - (c) the opportunity prior to the Council meeting to make written submissions; and
 - (d) the opportunity to be heard at the Council meeting.
- 13.9 A Councillor ceases to be a Councillor if:
- (a) they resign by delivering a Notice of resignation to the Council;
 - (b) they are removed from Council under this Constitution;
 - (c) they cease to meet the eligibility requirements referred to in clause 13.5;
 - (d) they die; or
 - (e) the Member which holds the right to nominate the person to be a Councillor, ceases to be a Member.

Remuneration and expenses

- 13.10 Councillors:
- (a) may be paid any remuneration for their service as a Councillor.
 - (b) may receive full reimbursement for all reasonable expenses incurred by that Councillor on behalf of BRANZ Inc. when authorised by resolution of the Board.

Role of Council

- 13.11 The role of Council is to act in accordance with any Bylaws dealing with the Council as approved by the Board, and unless otherwise determined by the Board, is to:
- (a) provide advice to the Board to assist the Board to be accountable for the expenditure of levies received under the Building Research Levy Act 1969;
 - (b) be future focussed and strategic to ensure that decisions are being made for the future, taking into account emerging trends and issues;
 - (c) assist with information and knowledge dissemination and communication to and from BRANZ Inc.;
 - (d) be a forum for communication between persons involved in the building industry and BRANZ Inc.;
 - (e) advocate for and advise in relation to BRANZ Inc.'s Purposes and its vision;
 - (f) perform the Council's function in relation to nominations, and identification and selection of Individuals to be Councillors;
 - (g) perform the Council's function in relation to the appointments process for Council Appointed Board members; and
 - (h) any other function required by the Board.
- 13.12 At its first meeting after the AGM the Council will elect from among the Councillors a chair and deputy chair. The role of these Individuals is to facilitate the efficient conduct of Council meetings and its role.
- 13.13 A Councillor has a right to exercise one vote.
- 13.14 The quorum for a Council meeting is a majority of Councillors present.
- 13.15 A Councillor may be present at a Council meeting by any method approved by Council.
- 13.16 Unless otherwise specified in this Constitution or in the Bylaws a decision of the Council is by Ordinary Resolution which may be passed by any method approved by Council.
- 13.17 A resolution approved by Special Resolution by Councillors in writing or by any other means approved by Council in the absence of or outside a Council meeting is a valid resolution of Council.
- 13.18 The Council may regulate matters relating to its role and the conduct of its meetings provided that it is not inconsistent with this Constitution, the Act and the By-laws.

General Meetings

14. General Meetings

Annual General Meeting intervals

- 14.1 BRANZ Inc. must hold an AGM once a year at the time, date, and place the Board decides, but not more than 6 months after the end of the financial year of BRANZ Inc. and not more than 15 months after the previous AGM.
- 14.2 The Board must give Members at least 20 Working Days' Notice of the date, time and place of the AGM. The Notice may be given by e-mail and/or by displaying the information on a website maintained by BRANZ Inc.

Business of AGM

- 14.3 The following business will be discussed at the AGM:
- (a) confirmation of the minutes of the previous AGM;
 - (b) the Board's presentation of the following information during the most recently completed accounting period:
 - (i) the annual report;
 - (ii) the annual financial statements;
 - (iii) the auditor's report to members on the audited financial statements; and
 - (iv) notice of any disclosures of conflicts of interest made by Officers, which are required by the Act to be disclosed including a brief summary of the matters, or types of matters, to which those disclosures relate.
 - (c) the appointment of an auditor;
 - (d) the fixing of the remuneration of the auditor;
 - (e) consideration of any motions to amend this Constitution that have been properly submitted for consideration at the AGM;
 - (f) consideration of any other items of business that have been properly submitted for consideration at the AGM.
- 14.4 The Board must receive any proposed motions and other items of business in writing from Members at least 15 Working Days before the date of the AGM.
- 14.5 An agenda containing the business to be discussed at the AGM will be sent by the Board to the Members at least 10 Working Days before the date of the AGM. No additional items of business can be voted on other than those set out in the agenda, but the Members present may agree by Special Resolution to discuss any other items.

Special General Meeting

- 14.6 A SGM must be called by the Board if it receives a request in writing stating the purpose of the SGM:
- (a) from the Board; or
 - (b) signed by Members who together have the right to exercise 80 votes of Members.
- 14.7 The Board must give Members at least 10 Working Days' Notice of the SGM, unless the Board acting reasonably decides that the nature of the SGM business is of such urgency that a shorter period of notice is to be given to Members.
- 14.8 A SGM will only consider and deal with the business specified in the request for the SGM.

Method of holding General Meetings

- 14.9 General Meetings must be held by the required quorum of Members:
- (a) being assembled together at the time and place appointed for the meeting; or
 - (b) participating in the meeting by means of audio link, audiovisual link, or other electronic communication; or
 - (c) by a combination of both of the methods described in sub-clauses 14.9(a) and 14.9(b).

Quorum

- 14.10 No business is to be transacted at any General Meeting unless a quorum is present at the time when the meeting is due to start. The quorum for a General Meeting is 15 Members. The quorum must be present at all times during the General Meeting.
- 14.11 If a quorum is not reached within 30 minutes of the scheduled start time of an AGM, the AGM will be adjourned to a day, time, and place determined by the chair. If no quorum is achieved at the further AGM, the Members present 15 minutes after the scheduled start time of that further AGM are deemed to constitute a valid quorum.
- 14.12 If a quorum is not reached within 30 minutes of the scheduled start time of a SGM, the SGM is cancelled.

Control of General Meetings

- 14.13 The chair of the Board will preside at the General Meeting. If that person is unavailable a Board member appointed by the Board will preside. In the absence of both of those persons, the Members present will elect a chair of the General Meeting.

Attendance and voting

- 14.14 The following persons are eligible to attend and speak at General Meetings:
- (a) any Member, provided that if the Member has in accordance with this Constitution appointed a Members Representative, the Members Representative may attend and speak and the Member cannot;
 - (b) any other Individuals invited by the Board.
- 14.15 The voting entitlement for each Member eligible to vote is:
- (a) if in the category in clause 4.2(a), 500 votes each;

- (b) if in the category in clause 4.2(b), one vote each, except that if the number of Members in this category entitled to vote exceeds 500, such Members will each have the number of votes calculated by dividing 500 votes evenly among the number of such Members;
 - (c) for each Board member, the number of votes calculated by dividing 1000 votes evenly among the number of Board members;
 - (d) for each Councillor, the number of votes calculated by dividing 1000 votes evenly among the number of Councillors.
- 14.16 Voting will generally be conducted by voices or by a show of hands as determined by the chair of the General Meeting unless a secret ballot is called for and approved by Ordinary Resolution.
- 14.17 Casting votes by electronic means is permitted and the voting process set out in clause 14.16 must allow for that. To avoid doubt a member or Member's Representative may not vote unless present at the General Meeting as permitted by clause 14.9.
- 14.18 An Ordinary Resolution at a General Meeting will be sufficient to pass a resolution, except as specified in this Constitution.

Minutes

- 14.19 Minutes must be kept of all General Meetings.

Irregularities

- 14.20 An irregularity in the manner of calling a General Meeting is waived if all the Members entitled to attend and voting at the meeting attend the meeting without protest as to the irregularity, or if all such members agree to the waiver.
- 14.21 An accidental omission to give notice of a General Meeting to, or a failure to receive notice of a General Meeting by, a Member does not invalidate the proceedings at that General Meeting.
- 14.22 Any error or omission in information for, or organisation of a General Meetings or the omission to give notice will not invalidate the General Meeting if:
- (a) the chair in their discretion determines that it is still appropriate for the General Meeting to proceed despite the irregularity, error, or omission; and
 - (b) a motion to proceed is put to the General Meeting and such motion is passed by a Special Resolution.

Resolution passed in lieu of meeting

- 14.23 A resolution in writing signed or approved by e-mail or by electronic means by not less than 75% of the Members who are entitled to vote will be valid as if it had been passed at a General Meeting if clauses 14.24 and 14.25 are complied with. Any resolution may consist of several documents in the same form each signed or approved by one or more Members.
- 14.24 The Board must ensure that a proposed resolution is sent to Members entitled to vote which contains:
- (a) the date it was circulated to all Members entitled to vote;
 - (b) a statement that the proposed resolution will lapse if it is not passed within 3 months, or any lesser period stated, of the date specified in clause 14.24(a).

- 14.25 The Board must ensure that within 5 Working Days after a resolution is passed under clause 14.23, a copy of the resolution is sent to the address, including an electronic address, of all Members who did not approve the resolution.

Compliance and other provisions

15. Contact Person

- 15.1 The Board must appoint at least one, and a maximum of three, persons to be BRANZ Inc.'s Contact Person, subject to those persons meeting the eligibility criteria set out in the Act. The Board must advise the Registrar of any change in the Contact Person or that person's Contact Details.

16. Duties owed to BRANZ Inc. by Officers

- 16.1 An Officer must comply with the Officers duties set out in the Act and in any Bylaws:

17. Conflicts of interest

- 17.1 The Board must keep an interests register as required by the Act.
- 17.2 An Officer must comply with the conflict-of-interest disclosure rules set out in the Act and in any Bylaws.

18. Indemnity and insurance

- 18.1 Subject to approval of the Board BRANZ Inc. is expressly authorised to indemnify and/or effect insurance for its own current and former Officers, members, and employees as permitted by sections 94 to 98 of the Act.
- 18.2 The Officers who vote in favour of authorising the insurance under section 97 of the Act must sign a certificate stating that, in their opinion, the cost of effecting the insurance is fair to BRANZ Inc.
- 18.3 Subject to approval of the Board BRANZ Inc. is authorised to indemnify an Officer under section 96 of the Act or effect insurance for an Officer under section 97 of the Act for the following matters:
- (a) liability (other than criminal liability) for a failure to comply with a duty under sections 54 to 61 of the Act or any other duty imposed on the Officer in their capacity as an Officer; and
 - (b) costs incurred by the Officer for any claim or proceeding relating to that liability.

19. Finances

- 19.1 The funds and property of BRANZ Inc. will be controlled and managed by the Board, subject to this Constitution.
- 19.2 BRANZ Inc.'s balance date will be 31 March or the date that the Board decides.
- 19.3 BRANZ Inc. must prepare and register financial statements as required by the Act.
- 19.4 BRANZ Inc.'s financial statements must be audited each year as required by law and the audited financial statements must be submitted to the AGM. The auditors will be appointed at each AGM.

20. Amendments

Amendment

- 20.1 Subject to clause 20.3 this Constitution may only be amended or replaced by Special Resolution at a General Meeting.
- 20.2 No amendment to this Constitution will be approved if it affects the prohibition on personal benefits clauses 3.3 to 3.6. This clause must not be removed from this Constitution.
- 20.3 If an amendment to this Constitution would have no more than a minor effect or is to correct errors or makes similar technical alterations, then the Board may give Notice of the amendment to every Member stating the text of the amendment and the right of Members to object to the amendment.
- 20.4 If the Board does not receive any objections from Members within 20 Working Days after the date on which the Notice is sent, or any longer period of time that the Board decides, then the Board may make that amendment. If it does receive an objection, then the Board may not make the amendment.
- 20.5 If any situation arises that, in the opinion of the Board, is not provided for in this Constitution or any Bylaws, the matter will be determined by the Board.

Bylaws

- 20.6 The Board may make and amend Bylaws for the conduct and control of BRANZ Inc.'s activities and codes of conduct applicable to Members. No Bylaw will contravene or be inconsistent with the Act, any other laws, or this Constitution. Bylaws are binding on Members.

21. Dispute resolution process

Disputes

- 21.1 BRANZ Inc. may consider, resolve, and/or decide disputes between any one or more Members acting in their capacity as Members and any one or more Officers acting in their capacity as Officers and BRANZ Inc., that relate to an allegation that:
 - (a) a Member or an Officer has engaged in misconduct; or
 - (b) a Member or an Officer has breached, or is likely to breach, a duty under this Constitution or the Act; or

- (c) BRANZ Inc. has breached, or is likely to breach, a duty under this Constitution or the Act; or
- (d) a Member's rights or interests as a member have been damaged or Members' rights or interests generally have been damaged.

How a complaint is made

- 21.2 A Member or an Officer may make a complaint by giving Notice to the Board, or any subcommittee established for this purpose, that:
- (a) states that the Member or Officer is starting a procedure for resolving a dispute under this Constitution;
 - (b) sets out the allegation to which the dispute relates and who the allegation is against; and
 - (c) sets out any other information reasonably required by BRANZ Inc.
- 21.3 BRANZ Inc. may make a complaint involving an allegation against a Member or an Officer by giving Notice to the person concerned that:
- (a) states that BRANZ Inc. is starting a procedure for resolving a dispute under this Constitution; and
 - (b) sets out the allegation to which the dispute relates.

Person who makes complaint has right to be heard

- 21.4 Unless BRANZ Inc. decides not to proceed, the Member has a right to be heard before the complaint is resolved or any outcome is determined. A Member must be taken to have been given the right if:
- (a) the Member has a reasonable opportunity to be heard in writing or at an oral hearing, if one is held; and
 - (b) an oral hearing is held if the decision maker considers that an oral hearing is needed to ensure an adequate hearing; and
 - (c) an oral hearing, if any, is held before the decision maker; and
 - (d) the Member's written statement or submissions, if any, are considered by the decision maker.
- 21.5 If BRANZ Inc. makes a complaint, it has a right to be heard before the complaint is resolved or any outcome is determined and a Board member may exercise that right on BRANZ Inc.'s behalf. BRANZ Inc. must be taken to have been given the right if:
- (a) they have a reasonable opportunity to be heard in writing or at an oral hearing, if one is held; and
 - (b) an oral hearing is held if the decision maker considers that an oral hearing is needed to ensure an adequate hearing; and
 - (c) an oral hearing, if any, is held before the decision maker; and
 - (d) its written statement or submissions, if any, are considered by the decision maker.

Respondent has right to be heard

- 21.6 The Member or Officer who, or BRANZ Inc. which, is the subject of the complaint (**Respondent**) has a right to be heard before the complaint is resolved or any outcome is determined. If the Respondent is BRANZ Inc., a Board member may exercise the right on behalf of BRANZ Inc.
- 21.7 A Respondent must be taken to have been given the right if:
- (a) the Respondent is fairly advised of all allegations concerning the Respondent, with sufficient details and time given to enable the Respondent to prepare a response; and
 - (b) the Respondent has a reasonable opportunity to be heard in writing or at an oral hearing, if one is to be held; and
 - (c) an oral hearing is held if the decision maker considers that an oral hearing is needed to ensure an adequate hearing; and
 - (d) an oral hearing, if any, is held before the decision maker; and
 - (e) the Respondent's written statement or submissions, if any, are considered by the decision maker.

Investigating and determining disputes

- 21.8 BRANZ Inc. must as soon as is reasonably practicable after receiving a complaint or grievance, investigate and determine the complaint or grievance in a fair, efficient, and effective manner.

Circumstances in which a process may not proceed

- 21.9 Despite the content of this clause 21 and any other clause in this Constitution or in the Bylaws, BRANZ Inc. may decide not to proceed with a matter if:
- (a) the complaint is trivial; or
 - (b) the complaint does not appear to disclose or involve any allegation of the following kind:
 - (i) any material misconduct; or
 - (ii) any material breach or likelihood of material breach of a duty under this Constitution or the Act;
 - (iii) any material damage to a Member's rights or interests or Members' rights or interests generally; or
 - (c) the complaint appears to be without foundation or there is no apparent evidence to support it; or
 - (d) the person who makes the complaint has an insignificant interest in the matter; or
 - (e) the conduct, incident, event, or issue giving rise to the complaint has already been investigated and dealt with under this Constitution; or
 - (f) there has been an undue delay in making the complaint.

Refer complaint

21.10 BRANZ Inc. may refer a complaint to:

- (a) a subcommittee or an external person to investigate and report; or
- (b) a subcommittee, an arbitral tribunal, or an external person to investigate and make a decision.
- (c) with the consent of all parties to the complaint, to any type of consensual dispute resolution such as mediation or facilitation.

Decision makers

21.11 An Individual may not act as a decision maker in relation to a complaint if 2 or more members of the decision-making body (whether it is a Board, committee, complaints subcommittee, tribunal, or other) consider that there are reasonable grounds to believe that the Individual may not be:

- (a) impartial; or
- (b) able to consider the matter without a predetermined view.

22. Ending BRANZ Inc.

22.1 The Board must give Notice to all Members of at least 20 Working Days of a proposed motion:

- (a) to remove BRANZ Inc. from the Register;
- (b) for the distribution of BRANZ Inc.'s surplus assets; or
- (c) to appoint a liquidator.

22.2 The Notice must comply with section 228 of the Act and include details of the General Meeting at which the proposed motion is to be considered.

22.3 Any resolution for a motion set out in clauses 22.1(a) to 22.1(c) must be passed by a Special Resolution.

22.4 The surplus assets of BRANZ Inc., after the payment of all costs, debts, and liabilities, must be distributed subject to the approval of the Minister to any other not-for-profit entity or entities that have similar purposes to BRANZ Inc. as determined in accordance with the Act.

23. Transition

- 23.1 This clause applies to facilitate transition of BRANZ Inc. from the previous constitution to this Constitution. If this clause is inconsistent with any other clause in this Constitution, this clause will apply to the extent of the inconsistency and the other clause will not.

Transition of Members

- 23.2 Subject to this Constitution, every Member who or which was a member of BRANZ Inc. and recorded on the Member Register immediately prior to the commencement of this Constitution, will continue as a Member.

Transition of Board members

- 23.3 Board members appointed to the Board under the previous constitution continue the terms for which they were appointed. When they vacate their Board position, they are deemed to have been Council Appointed Board Members.
- 23.4 The Board cannot appoint Board Appointed Board members until on or after 1 April 2025.

Transition of Councillors

- 23.5 Councillors appointed to the Council under the previous constitution continue the terms for which they were appointed except that their terms end immediately prior to the start of an AGM and not at the closure of an AGM.
- 23.6 The Council will determine which of the positions appointed under the previous constitution are deemed to be positions which on expiry are to be appointed by organisations that have the power to appoint Councillors under the new Constitution.

Transition of Bylaws

- 23.7 All Bylaws which were in force immediately prior to this Constitution coming into force will continue in force, unless otherwise decided by the Board. If any of those Bylaws are inconsistent with this Constitution (whether in whole or in part), the Board will determine the matter as it sees fit.

Transition to new requirements

- 23.8 In the period of up to one year from the date of adoption of this Constitution the Board may, subject to law:
- (a) amend any requirement for, and/or the date by which this Constitution requires, anything to be done to facilitate transition of BRANZ Inc. to this Constitution;
 - (b) decide any matter arising, including where such matter would normally be or is required to be guided or determined by a Bylaw and that Bylaw is not yet in place.