

## **Explanatory Memorandum**

Member approval of resolutions is required. This Explanatory Memorandum has been prepared to provide Members with material information to enable Members to make an informed decision in relation to the business to be conducted at the Extraordinary General Meeting of the Company.

### **Background**

On 25 September 2024, the Company received a petition signed by 64 Members requesting a general meeting be held and that four (4) resolutions be put as special resolutions as part of the general meeting.

The Board of the Company sought legal advice on the petition.

The Board of the Company respectfully notes that pursuant to the *Corporations Act 2001* (Cth) Company affairs and business operation is to be managed by and under the direction of the Board.

Accordingly, the Board considers that three of the proposed resolutions in the petition, are not able to be put to the Extraordinary General Meeting as they are matters falling within the Board's management powers and, therefore, do not qualify as matters that can be put to a general meeting.

However, the Board proposes that, in the spirit of the request in the petition that three alternative resolutions be put for consideration by the Members, as follows:

### **Resolution 1**

*That the Board considers disclosing all financial investments to members in all future annual reports.*

### **Resolution 2**

*That the Board considers reviewing its current Investment Policy and Sponsorship and Advertising Policy for further ethical alignment and seeks to identify any additional parameters that may be appropriate following member feedback.*

### **Resolution 3**

*That the Board will continue to support student activism by enabling the elected Student Representative Council and Postgraduate Council to advocate for students and student issues through their campaigns and initiatives.*

The outcome of discussions of the above three resolutions are important to the Board. The Board intends to take seriously the outcome of the member discussion on these Resolutions above.

### **Resolution 4**

The Board considers that resolution 3 as proposed by the petitioners is a resolution that qualifies to be put to a general meeting. That resolution is as follows:

To consider and, if thought fit, pass the following resolution, which will be proposed as a special resolution of the Company:

*That section 3.2 of the Arc Constitution be amended to the following:*

*The income and property of Arc must be applied towards the promotion of the objectives of Arc as set out in this Constitution and the Regulations.*

(a) *No part of the income or property of Arc may be applied to, and the business of Arc may not be carried on for the purpose of:*

(i) *the profit or gain of any Member; or*

(ii) *investment in any industry or company in which the majority of revenue is sourced from the development, production, or sales of weapons or other arms, or*

**Arc @ UNSW Limited**  
**ACN 121 239 674**  
**(Company)**

*(iii) engaging, colluding, partnering with or investing in cultural, governmental, military, financial or corporate institutions or any company or organisation otherwise that engages in conduct that is not conducive with international law.*

**The Board does not recommend that this resolution be passed.** The Board unanimously recommends that the resolution be rejected on the basis that its wording is vague and therefore will be difficult **if not impossible** for the Company to comply with.

If the resolution is passed, the Board must comply with it. However, the Board considers that it will have difficulty in complying with the new provision as discussed below.

Relevantly, part (ii) of the proposed resolution means that Arc cannot invest in certain industries or companies being those "in which the majority of revenue is sourced from the development, production, or sales of weapons or other arms". It may be difficult, if not impossible, for the Board at any given time to determine whether a company it wishes to invest in has the majority of revenue sourced from the development, production, or sales of weapons or other arms. Also, determining these matters would be a time-consuming and expensive exercise.

Part (iii) of the proposed resolution is even more difficult to comply with because it contains even more vague terms such as 'colluding' or 'partnering'. Similar with the reasoning above, if the proposed resolution is passed, it would be therefore necessary for the Board to determine whether any entity that it wishes to partner with or invest in "is not conducive with international law". The Board notes that the meaning of "not conducive with" is again quite unclear and would be a time-consuming and expensive exercise to ascertain. The Company does not have the resources to constantly monitor such investments to ensure that it is complying with this proposed requirement. The money that would be spent on such monitoring could be better spent on services for Members.

Note, Part (i) is currently incorporated into clause 3.2 of Arc's existing constitution.

#### **Resolution 5**

However, the Board does understand the sentiment behind the proposed resolution and wishes to accommodate the desires of its Members. Accordingly, the Board has proposed Resolution 5, which provides the following:

To consider and, if thought fit, pass the following resolution, which will be proposed as a special resolution of the Company:

*That a new section 10.3 be added to the Company's constitution as follows*

#### **10.3 Investments of Arc**

*The Board must maintain an investment policy for investing surplus funds of Arc that is aligned with ethical and sustainable investment principles and, for avoidance of doubt, prohibits any investment in a company primarily producing weapons, arms or providing military support.*

This resolution will amend the constitution. This resolution acknowledges that the Board currently maintains an Investment Policy that aligns with ethical and sustainable investment principles (Investment Policy). Under the Investment Policy, the Company prohibits investments in companies associated with the production or supply of armaments.

This proposed amendment to the constitution aims to formalise these principles to ensure that the Board continues to adhere to these standards. The proposed Resolution 5 uses the term "primarily producing weapons, arms or providing military support," which the Board believes to provide a clear and practical guideline for future investment decisions. The Board considers that this language is straightforward and ensures that the policy remains actionable without requiring excessive resources or administrative burden.

If this resolution is passed, the Board will be required to maintain its Investment Policy in accordance with the proposed amendment, ensuring ongoing alignment with these ethical parameters.