

# **CONSTITUTION OF [ASHFIELD BUSINESS ASSOCIATION] INCORPORATED**

*Incorporated under the Associations Incorporation Act 2009 and  
the Associations Incorporation Regulation 2016 (NSW)*

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## Part 1 Preliminary

### 1 Definitions

(1) In this constitution:

**association** means [Ashfield Business Association Incorporated].

**authorised representative** means an individual who is authorised to represent a corporate member in respect of its membership of the association, including voting at in general meetings.

**business** means any business within the district, including but not limited to live music venues, licensed venues, cultural institutions, hospitality venues and/or nightclubs etc., regardless of whether operating on a commercial, for-purpose or not-for-profit basis.

**community representative** means a natural person who has interest in the district activities.

**corporate member** means a member of the association that is not an individual.

**district** means the business district of Ashfield, including the business area along Liverpool Road and Hercules St Ashfield NSW 2131.

**person** means an individual, a corporation, or a body corporate or politic.

**Public officer** means

- (a) the person holding office so appointed by the committee, or
- (b) if no person is so appointed – a person in the following order: president, secretary, or treasurer.

**ordinary committee member** means a member of the committee who is not an office-bearer of the association.

**secretary** means:

- (a) the person holding office under this constitution as secretary of the association, or
- (b) if no person holds that office - the public officer or his/her appointed delegate.

**special general meeting** means a general meeting of the association other than an annual general meeting.

**the Act** means the *Associations Incorporation Act 2009*.

**the Regulation** means the *Associations Incorporation Regulation 2016*.

**writing** includes email and other correspondence in electronic form.

### 2 Objects

(1) The objects of the association are to:

- (a) promote, nurture and celebrate the district as a part of Sydney's 24 hour economy,
- (b) support and advocate for the district's industry and cultural development,

- (c) promote and develop the district's vibrancy, diversity, safety and access to amenity throughout the day and night,
  - (d) represent the interests of the district's businesses, entrepreneurs, community members and cultural institutions particularly with regard to the district's participation in Sydney's 24 hour economy; and
  - (e) encourage visitors into the district at night, observing and encouraging healthy behaviours.
- (2) The association has power to do anything that helps it to achieve its objects.
- (3) Subject to the Act and Regulations, the association may only exercise its powers and use its income and assets (including any surplus) for its objects.

## **Part 2 Membership**

### **3 Eligibility for membership**

- (1) A person is eligible to be a member of the association if:
- (a) the person supports the objects of the association,
  - (b) the person is one or more of the following:
    - (i) an owner or operator of a business located in the district, or
    - (ii) a community representative,
- and
- (c) the person has applied and been approved for membership of the association in accordance with clause 4.
- (2) A person is ineligible to be a member of the association if:
- (a) the person engages in illegal activities, or
  - (b) the person has a record of business practice which is not generally acceptable in the public community.
- (3) A person is taken to be a member of the association if the person was:
- (a) in the case of an unincorporated body that is registered as the association - a member of that unincorporated body immediately before the registration of the association, or
  - (b) one of the persons on whose behalf an application for registration of the association under section 6 (1) (a) of the Act was made.

### **4 Applying for membership**

- (1) A person can apply for membership of the association in writing to the secretary of the association.
- (2) The secretary must refer the application to the committee as soon as practicable after receiving an application for membership.
- (3) The committee must decide to approve or reject the application for membership.

- (4) As soon as practicable after the committee makes its decision, the secretary must notify the applicant in writing that the committee approved or rejected the application (whichever is applicable).
- (5) If the committee approved the application, within 14 days of being informed of the committee's decision, the applicant must pay any joining fee or membership fees payable under this constitution.
- (6) A person becomes a member of the association when, having satisfied the requirements of sub-clause (5), the applicant's details are entered into in the register of members in accordance with clause 9.
- (7) If the committee rejected the application, the association must return any fees paid by the applicant within a reasonable period.
- (8) An applicant who is dissatisfied with the committee's decision may, within 28 days of receiving notice of that decision, write to the secretary asking for the decision to be reconsidered by the association in general meeting. If the applicant makes representations in writing to the secretary or committee (not exceeding a reasonable length) and requests that the representations be notified to the members of the association, the secretary may send a copy of the representations to each member of the association or, if the representations are not sent, the applicant is entitled to require that the representations be read out at the meeting at which the matter is considered.
- (9) The members of the association may resolve in general meeting to overturn or confirm the determination of the committee. The resolution of the members is final.

## **5 Fees and subscriptions**

- (1) A member of the association must, prior to or on admission to membership, pay to the association the joining fee (if any).
- (2) A member of the association must also pay to the association the applicable annual membership fee:
  - (a) except as provided by paragraph (b), before the first day of the financial year of the association in each calendar year, or
  - (b) if the member becomes a member on or after the first day of the financial year of the association in any calendar year—on becoming a member and before the first day of the financial year of the association in each succeeding calendar year.
- (3) The committee may set or change the joining fees or membership fees from time to time.
- (4) The joining fees and membership fees as at the date of incorporation of the association are \$10, or otherwise determined thereafter by the Committee.

## **6 Membership entitlements**

- (1) A right, privilege, or obligation which a person has by reason of being a member of the association:
  - (a) is not capable of being transferred or transmitted to another person, and
  - (b) terminates when the person stops being a member of the association.

## **7 Liability of members**

A member of the association is not liable to contribute to the payment of the debts and liabilities of the association or the costs, charges and expenses of the winding up of the association, except to the extent of any outstanding fees payable to the association.

## **8 Ending membership**

- (1) A person may end their membership of the association at any time by notice in writing to the secretary.
- (2) A person's membership of the association ends if the person:
  - (a) resigns in accordance with sub-clause (1), or
  - (b) dies, or
  - (c) is wound up or otherwise dissolved or deregistered (for a corporate member), or
  - (d) is expelled from the association in accordance with the disciplinary procedures in this constitution (if any), or
  - (e) fails to pay the annual membership fee under clause 5 within 3 months after the fee is due, or
  - (f) have not responded within 3 months to a written request from the secretary that they confirm in writing that they want to remain a member.

## **9 Register of members**

- (1) The secretary must establish and maintain a register of members of the association in written or electronic form.
- (2) The register must specify:
  - (a) the name and address of each person who is a member of the association,
  - (b) the date on which the person became a member,
  - (c) in the case of a corporate member, the name(s) and address(es) of the authorised representative(s) of the member,
  - (d) the type of membership fee applicable to the member and the date it was paid.
- (3) The register of members must be kept in New South Wales:
  - (a) at the main premises of the association, or
  - (b) if the association has no premises, at the association's official address.
- (4) If a member requests that any information contained on the register about the member (other than the member's name) not be available for inspection, that information must not be made available for inspection.
- (5) A member must not use information about a person obtained from the register to contact or send material to the person, other than for:
  - (a) the purposes of sending the person a newsletter, a notice in respect of a meeting or other event relating to the association or other material relating to the association, or

- (b) any other purpose necessary to comply with a requirement of the Act or the Regulation.
- (6) If the register of members is kept in electronic form:
  - (a) it must be convertible into hard copy, and
  - (b) the requirements in subclause (3) apply as if a reference to the register of members is a reference to a current hard copy of the register of members.

## **10 Resolution of disputes**

- (1) A dispute between a member and another member (in their capacity as members) of the association, or a dispute between a member or members and the association, are to be referred to a Community Justice Centre for mediation under the *Community Justice Centres Act 1983*.
- (2) If a dispute is not resolved by mediation within 3 months of the referral to a Community Justice Centre, the dispute is to be referred to arbitration.
- (3) The *Commercial Arbitration Act 2010* applies to a dispute referred to arbitration.

## **11 Disciplining of members**

- (1) A complaint may be made to the committee by any person that a member of the association:
  - (a) has refused or neglected to comply with a provision or provisions of this constitution, or
  - (b) has wilfully acted in a manner prejudicial to the interests of the association.
- (2) The committee may refuse to deal with a complaint if it considers the complaint to be trivial or vexatious in nature.
- (3) If the committee decides to deal with the complaint, the committee:
  - (a) must cause notice of the complaint to be served on the member concerned, and
  - (b) must give the member at least 14 days from the time the notice is served within which to make submissions to the committee in connection with the complaint, and
  - (c) must take into consideration any submissions made by the member in connection with the complaint.
- (4) The committee may, by resolution, expel the member from the association or suspend the member from membership of the association if, after considering the complaint and any submissions made in connection with the complaint, it is satisfied that the facts alleged in the complaint have been proved and the expulsion or suspension is warranted in the circumstances.
- (5) If the committee expels or suspends a member, the secretary must, within 7 days after the action is taken, cause written notice to be given to the member of the action taken, of the reasons given by the committee for having taken that action and of the member's right of appeal under clause 12.
- (6) The expulsion or suspension does not take effect:

- (a) until the expiration of the period within which the member is entitled to appeal against the resolution concerned, or
  - (b) if within that period the member exercises the right of appeal, unless and until the association confirms the resolution under clause 12,
- whichever is the later.

## **12 Right of appeal of disciplined member**

- (1) A member may appeal to the association in general meeting against a resolution of the committee under clause 11, within 7 days after notice of the resolution is served on the member, by lodging with the secretary a notice to that effect.
- (2) The notice may, but need not, be accompanied by a statement of the grounds on which the member intends to rely for the purposes of the appeal.
- (3) On receipt of a notice from a member under subclause (1), the secretary must notify the committee, which is to convene a general meeting of the association to be held within 28 days after the date on which the secretary received the notice.
- (4) At a general meeting of the association convened under subclause (3):
  - (a) no business other than the question of the appeal is to be transacted, and
  - (b) the committee and the member must be given the opportunity to state their respective cases orally or in writing, or both, and
  - (c) the members present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- (5) The appeal is to be determined by a majority of votes cast by members of the association. The determination of the members is final.

## **Part 3 The committee**

### **13 Powers of the committee**

Subject to the Act, the Regulation, this constitution and any resolution passed by the association in general meeting, the committee:

- (a) is to control and manage the affairs of the association, and
- (b) may exercise all the functions that may be exercised by the association, other than those functions that are required by this constitution to be exercised by a general meeting of members of the association, and
- (c) has power to perform all the acts and do all things that appear to the committee to be necessary or desirable for the proper management of the affairs of the association.



## 14 Composition and membership of committee

- (1) The committee must consist of the following committee members:
  - (a) the president, the treasurer, the secretary (the **office bearers**); and
  - (b) [up to 6] ordinary committee members,each of whom is to be elected at the annual general meeting of the association in accordance with this constitution.
- (2) A person is eligible to be elected or appointed as a committee member if they:
  - (a) are an individual who is (or is an authorised representative of) a member of the association,
  - (b) are at least 18 years of age,
  - (c) are entitled to vote at general meeting of the association, and
  - (d) ordinarily reside in Australia.
- (3) Each member of the committee is, subject to this constitution, to hold office until immediately before the election of committee members at the annual general meeting next following the date of the member's election (**term**), and is eligible for re-election.
- (4) A committee member may hold office for a [maximum of 5] consecutive terms.

## 15 Election of committee members

- (1) At least 4 weeks prior to the proposed date of the annual general meeting, the secretary must request from members of the association nominations for elections to the committee positions falling vacant at that meeting.
- (2) Nominations of candidates for election as office-bearers of the association or as ordinary committee members must be:
  - (a) made by 2 members of the association in writing and accompanied by the written consent of the candidate, and
  - (b) delivered to the secretary of the association at least [7 days] before the date fixed for the holding of the annual general meeting at which the election is to take place.
- (2) If insufficient nominations are received to fill all vacancies on the committee, the candidates nominated are taken to be elected and further nominations can be received at the annual general meeting.
- (3) If insufficient further nominations are received, the committee may, at its next meeting, appoint a member of the association to the committee and that member will hold office, subject to this constitution, until the next annual general meeting.
- (4) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.
- (5) If the number of nominations received exceeds the number of vacancies to be filled, a ballot is to be held.
- (6) The ballot for the election of office-bearers and ordinary committee members of the committee is to be conducted at the annual general meeting in any usual and proper manner that the committee directs.

## **16 Skills and experience of committee members**

- (1) From time to time the committee will determine, and will communicate to members at or around the time when nominations for election are open:
  - (a) the suite of skills, experience and attributes that the committee (as a whole) desirably should have to meet the association's strategic objectives and needs, and
  - (b) any priorities or targets in the desired skills, experience and attributes of the committee,so as to assist members in identifying prospective nominees, and to support members in the exercise of their voting for committee members at the annual general meeting.
- (2) The committee shall encourage members in nominating or electing committee members to have regard to the skills, experience and attributes of the committee as a whole.

## **17 Duties of committee members**

Committee members must comply with their duties under legislation and common law (judge made law) including the duties imposed on committee members by the Act.

## **18 Conflicts of interest**

- (1) If a committee member has a direct or indirect interest in a matter being considered (or about to be considered) by the committee, and that interest appears to raise a conflict with the proper performance of the committee member's duties, then the committee member must disclose the nature and extent of that interest at a committee meeting as soon as possible.
- (2) Unless the Committee determines otherwise, the committee member:
  - (a) must not be present while the matter is being considered by the committee; and
  - (b) must not take part in the decision on the matter.
- (3) While the Committee is determining whether the committee member can be present, take part in or vote on the matter, the committee member who has disclosed the interest must not be present for any discussion of the Committee relating to that determination or take part in making the determination.
- (4) Disclosures by committee members must be recorded in a book kept for that purpose (Disclosure of Interest Book) kept in accordance with the requirements of this constitution, the Act and the Regulation.

## **19 Ending committee membership and casual vacancies**

- (1) A committee member stops being on the committee if the person:
  - (a) resigns by notice in writing to the secretary or the committee, or
  - (c) is removed in accordance with clause 21, or
  - (d) stops being (or is no longer an authorised representative of) a member of the association, or

- (e) dies,
  - (f) is or becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth, or
  - (g) becomes a mentally incapacitated person, or
  - (h) is absent without the consent of the committee from 3 consecutive meetings of the committee, or
  - (i) is convicted of an offence involving fraud or dishonesty for which the maximum penalty on conviction is imprisonment for not less than 3 months, or
  - (j) is prohibited from being a director of a company under Part 2D.6 (disqualification from managing corporations) of the *Corporations Act 2001* of the Commonwealth, or
  - (k) otherwise stop being a committee member by operation of the Act.
- (2) If a committee member stops being a committee member before the end of their term, the committee may appoint a member of the association to fill the casual vacancy, and that committee member will hold office, subject to this constitution, until the next annual general meeting.

## **20 Register of committee members**

- (1) An association must keep a register of committee members in accordance with the Act, the Regulation and this constitution.
- (2) The register must contain the following particulars in relation to each committee member:
  - (a) the committee member's name, date of birth and residential address,
  - (b) the date on which the committee member takes office,
  - (c) the date on which the committee member vacates office,
  - (d) such other particulars as prescribed by the Regulation.
- (3) The register must be kept in New South Wales—
  - (a) at the main premises of the association, or
  - (b) if the association has no premises, at the association's official address.
- (4) Any change in the committee's membership must be recorded in the register within one month after the change occurs.

## **21 Removal of committee members**

- (1) The members of the association in general meeting may resolve to remove any member of the committee before the expiration of the member's term of office, and may by resolution appoint another person to hold office until the expiration of the term of office of the member so removed.
- (2) If a member of the committee to whom a proposed resolution referred to in subclause (1) relates makes representations in writing to the secretary or committee (not exceeding a reasonable length) and requests that the representations be notified to the members of the association, the secretary may send a copy of the representations to each member of the association or, if the representations are not sent, the member is entitled to require that

the representations be read out at the meeting at which the resolution is considered.

## **22 Committee meetings and quorum**

- (1) The committee can decide how often meetings will generally be held, provided that it meets at least 3 times per year.
- (2) Meetings of the committee may be convened by the president or by any member of the committee.
- (3) Notice of a committee meeting must be given by the secretary to each member of the committee at least 48 hours (or any other period that may be unanimously agreed on by the members of the committee) before the time appointed for the holding of the meeting.
- (4) Notice of a meeting given under subclause (3) must specify the date, time, place and general nature of the business to be transacted at the meeting. If the meeting is to be held via technology, the notice must state this and include instructions for accessing the meeting.
- (5) Any business not included in the notice can only be transacted at the meeting if the committee members present unanimously agree to do so.
- (6) [A majority of] members of the committee constitute a quorum for the transaction of the business of a meeting of the committee.
- (7) No business is to be transacted by the committee unless a quorum is present and if, within half an hour of the time appointed for the meeting, a quorum is not present, the meeting is to stand adjourned to the same place and at the same hour of the same day in the following week.
- (8) If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting is to be dissolved.
- (9) At a meeting of the committee:
  - (a) the president or, in the president's absence, the deputy president is to preside, or
  - (b) if the president and the deputy president are absent or unwilling to act, one of the remaining members of the committee chosen by the members present at the meeting is to preside.
- (10) The committee is entitled to invite any organisation or body to send a non-voting representative to attend and speak at committee meetings. The maximum number of non-voting representatives permitted to attend meetings of the committee at any one time is to be at the discretion of the president of the board.

## **23 Use of technology at committee meetings**

- (1) A committee meeting may be held at 2 or more venues using any technology approved by the committee that gives each of the committee's members a reasonable opportunity to participate.
- (2) A committee member who participates in a committee meeting using that technology is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

## **24 Voting and decisions**

- (1) Questions arising at a meeting of the committee are to be determined by a majority of the votes of members of the committee present at the meeting.
- (2) Each member present at a meeting of the committee (including the person presiding at the meeting) is entitled to one vote.
- (3) In the event of an equality of votes on any question, the person presiding at the meeting may exercise a second (casting) vote.
- (4) Subject to clause 22(6), the committee may act despite any vacancy on the committee.
- (5) Any act or thing done or suffered, or purporting to have been done or suffered, by the committee is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any member of the committee.

## **25 Delegation by committee to sub-committee**

- (1) The committee may, by instrument in writing, delegate to one or more sub-committees (consisting of the member or members of the association that the committee thinks fit) the exercise of any of the functions of the committee that are specified in the instrument, other than:
  - (a) this power of delegation, and
  - (b) a function which is a duty imposed on the committee by the Act or by any other law.
- (2) A sub-committee can exercise its delegated function or authority from time to time in accordance with the terms of the delegation.
- (3) The committee can impose conditions or limitations on the exercise of any delegated function as specified in the instrument of delegation.
- (4) Despite any delegation under this clause, the committee may continue to exercise any function delegated.
- (5) Any act or thing done or suffered by a sub-committee exercising a delegated function has the same force and effect as if it had been done or suffered by the committee.
- (6) The committee may, by instrument in writing, revoke wholly or in part any delegation under this clause.
- (7) A sub-committee may meet and adjourn and make decisions as it thinks proper.

## **Part 4 General meetings**

### **26 Annual general meetings**

- (1) The association must hold its first annual general meeting within 18 months after its registration under the Act.
- (2) The association must hold its annual general meetings:
  - (a) within 6 months after the close of the association's financial year, or

- (b) within any later time that may be allowed or prescribed under section 37(2)(b) of the Act.
- (3) Subject to the Act and subclauses (1) and (2), the committee can decide on the date, time and place of each annual general meeting.
- (4) The business of an annual general meeting is to include the following:
  - (a) to confirm the minutes of the last preceding annual general meeting and of any special general meeting held since that meeting,
  - (b) to receive from the committee reports on the activities of the association during the last preceding financial year,
  - (c) to elect office-bearers and ordinary committee members,
  - (d) to receive and consider any financial statement or report required to be submitted to members under the Act.
- (5) Other business may be transacted at an annual general meeting of which notice has been given,

## **27 Special general meetings**

- (1) The committee may, whenever it thinks fit, convene a special general meeting of the association.
- (2) The committee must, on the requisition of at least 50% of the total number of members, or 5 ordinary members, whichever is higher, convene a special general meeting of the association.
- (3) A requisition of members for a special general meeting:
  - (a) must be in writing, and
  - (b) must state the purpose or purposes of the meeting, and
  - (c) must be signed by the members making the requisition, and
  - (d) must be lodged with the secretary, and
  - (e) may consist of several documents in a similar form, each signed by one or more of the members making the requisition.
- (4) If the committee fails to convene a special general meeting to be held within 1 month after the date on which a requisition of members for the meeting is lodged with the secretary, any one or more of the members who made the requisition may convene a special general meeting to be held not later than 3 months after that date.
- (5) A special general meeting convened by a member or members as referred to in subclause (4) must be convened as nearly as is practicable in the same manner as general meetings are convened by the committee.
- (6) For the purposes of subclause (3):
  - (a) a requisition may be in electronic form, and
  - (b) a signature may be transmitted, and a requisition may be lodged, by electronic means.

## **28 Notice**

- (1) Notice of a general meeting must specify whether the meeting is an annual general meeting or a special general meeting.

- (2) Except for business proposed to be dealt with at a general meeting requires a special resolution of the association, the secretary must, at least 14 days before the date fixed for the holding of the general meeting, give a notice to each member specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.
- (3) If any business proposed to be dealt with at a general meeting requires a special resolution of the association, the secretary must, at least 21 days before the date fixed for the holding of the general meeting, cause notice to be given to each member specifying in addition to the matter required under subclause (2):
  - (a) the terms of the proposed special resolution, and
  - (b) the intention to propose the resolution as a special resolution.
- (4) The notice convening a general meeting must set out the business to be transacted at the meeting.
- (5) If the general meeting is to be held via technology, the notice must state this and include instructions for accessing the meeting.
- (6) A member desiring to bring any business before a general meeting may give notice in writing to the secretary who must include that business in the next notice of a general meeting given after receipt of the notice from the member.

## **29 Quorum for general meetings**

- (1) No business is to be transacted at a general meeting unless a quorum of members entitled under this constitution to vote is present during the time the meeting is considering that item.
- (2) [A majority of] members present (being members entitled under this constitution to vote at a general meeting, and in the case of corporate members a single authorised representative) constitute a quorum for the transaction of the business of a general meeting.
- (3) If within half an hour after the appointed time for the commencement of a general meeting a quorum is not present, the meeting:
  - (a) if convened on the requisition of members—is to be dissolved, and
  - (b) in any other case—is to stand adjourned to the same day in the following week at the same time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to members given before the day to which the meeting is adjourned) at the same place.
- (4) If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the members present (being at least 3) are to constitute a quorum.

## **30 Presiding member**

- (1) The president or, in the president's absence, the deputy president, is to preside as chairperson at each general meeting of the association.
- (2) If the president and the deputy president are absent or unwilling to act, the members present must elect one of their number to preside as chairperson at the meeting.

## **31 Adjournment**

- (1) The chairperson of a general meeting at which a quorum is present may, with the consent of the majority of members present at the meeting, adjourn the meeting from time to time and place to place, but no business is to be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- (2) If a general meeting is adjourned for 14 days or more, the secretary must give written or oral notice of the adjourned meeting to each member of the association stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.
- (3) Except as provided in subclauses (1) and (2), notice of an adjournment of a general meeting or of the business to be transacted at an adjourned meeting is not required to be given.

## **32 Making of decisions**

- (1) A question arising at a general meeting of the association is to be determined by:
  - (a) a show of hands or, if the meeting is one to which clause 37 applies, any appropriate corresponding method that the committee may determine, or
  - (b) if on the motion of the chairperson or if 5 or more members present at the meeting decide that the question should be determined by a written ballot—a written ballot.
- (2) If the question is to be determined by a show of hands, a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the association, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.
- (3) Subclause (2) applies to a method determined by the committee under subclause (1) (a) in the same way as it applies to a show of hands.
- (4) If the question is to be determined by a written ballot, the ballot is to be conducted in accordance with the directions of the chairperson.

## **33 Special resolutions**

A special resolution may only be passed by the association in accordance with section 39 of the Act.

## **34 Voting**

- (1) On any question arising at a general meeting of the association a member has one vote only.
- (2) In the case of an equality of votes on a question at a general meeting, the chairperson of the meeting is entitled to exercise a second (casting) vote.
- (3) A member is not entitled to vote at any general meeting of the association unless all money due and payable by the member to the association has been paid.



- (4) A member is not entitled to vote at any general meeting of the association if the member is under 18 years of age.

### **35 Proxy votes not permitted**

Proxy voting must not be undertaken at or in respect of a general meeting.

**Note.** Schedule 1 to the Act provides that an association's constitution is to address whether members of the association are entitled to vote by proxy at general meetings.

### **36 Postal or electronic ballots**

- (1) The association may hold a postal or electronic ballot (as the committee determines) to determine any issue or proposal (other than an appeal under clause 12), including a proposed special resolution.
- (2) A postal or electronic ballot is to be conducted in accordance with Schedule 3 to the Regulation.

### **37 Use of technology at general meetings**

- (1) A general meeting may be held at 2 or more venues using any technology approved by the committee that gives each of the association's members a reasonable opportunity to participate.
- (2) A member of an association who participates in a general meeting using that technology is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

## **Part 5 Miscellaneous**

### **38 Insurance**

The association may effect and maintain appropriate insurance.

### **39 Funds**

- (1) The funds of the association are to be derived from joining fees and annual membership fees, grants and donations, and, subject to any resolution passed by the association in general meeting, any other sources that the committee determines.
- (2) All money received by the association must be deposited as soon as practicable and without deduction to the credit of the association's bank or other authorised deposit-taking institution account.
- (3) The association must, as soon as practicable after receiving any money, issue an appropriate receipt.
- (1) The funds of the association are to be used solely in pursuance of the objects of the association in the manner that the committee determines.
- (2) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by 2 authorised signatories.

## **41 Association is non-profit**

- (1) Subject to the Act and the Regulation, association must apply its funds and assets solely in pursuance of the objects of the association and must not conduct its affairs so as to provide a pecuniary gain for any of its members.
- (2) This rule does not prevent the association from:
  - (a) paying its members reimbursement for expenses properly incurred by them or for goods supplied and services provided by them, if this is done in good faith on terms no more favourable than if the member were not a member; or
  - (b) distributing any surplus, income or assets in accordance with clause 42.

## **42 Distribution of property on winding up of association**

- (1) Subject to the Act and the Regulations, in a winding up of the association, any surplus property of the association is to be transferred to another organisation with similar objects and which is not carried on for the profit or gain of its members.
- (2) In this clause, a reference to the surplus property of an association is a reference to that property of the association remaining after satisfaction of the debts and liabilities of the association and the costs, charges and expenses of the winding up of the association.

## **43 Change of name, objects and constitution**

- (1) Subject to the Act and Regulations, this constitution may be changed, added to, or replaced only by special resolution of the association's members at a general meeting.
- (2) An application for registration of a change in the association's name, objects or constitution in accordance with section 10 of the Act is to be made by the public officer or a committee member.

## **44 Custody of books etc**

Except as otherwise provided by this constitution, all records, books and other documents relating to the association must be kept in New South Wales:

- (a) at the main premises of the association, in the custody of the public officer or secretary or as otherwise determined by the committee, or
- (b) if the association has no premises, at the association's official address, in the custody of the secretary or public officer.

## **45 Inspection of books etc**

- (1) The following documents must be open to inspection, subject to this constitution and free of charge, by a member of the association at any reasonable hour:
  - (a) register of members
  - (b) register of committee members
  - (c) disclosure of interest book

- (c) other records, books and other financial documents of the association,
  - (d) this constitution,
  - (e) minutes of committee meetings and general meetings of the association.
- (2) A member of the association may write to the secretary asking for copies of a record, book or document of the association. Unless the association is permitted to refuse the member's request in accordance with this constitution, the association must provide copies of a requested record, book or document of the association within a reasonable time of the request.
- (3) Subject to the Act and Regulations, the association can charge a reasonable fee for providing copies of records, books or documents.
- (4) Subject to the Act and Regulations, the association can refuse a request to inspect or get copies of the books, records and documents of the association, or provide only limited access, if they contain confidential, personal, employment, commercial or legal matters, or if granting the request would breach a law or may cause damage or harm to the association.

## **46 Service of notices**

- (1) For the purpose of this constitution, a notice may be served on or given to a person:
- (a) by delivering it to the person personally, or
  - (b) by sending it by pre-paid post to the address of the person, or
  - (c) by sending it by facsimile transmission or some other form of electronic transmission to an address specified by the person for giving or serving the notice.
- (2) For the purpose of this constitution, a notice is taken, unless the contrary is proved, to have been given or served:
- (a) in the case of a notice given or served personally, on the date on which it is received by the addressee, and
  - (b) in the case of a notice sent by pre-paid post, on the date when it would have been delivered in the ordinary course of post, and
  - (c) in the case of a notice sent by facsimile transmission or some other form of electronic transmission, on the date it was sent or, if the machine from which the transmission was sent produces a report indicating that the notice was sent on a later date, on that date.

## **47 Financial year**

The financial year of the association is:

- (a) the period of time commencing on the date of incorporation of the association and ending on the following 30 June, and
- (b) each period of 12 months after the expiration of the previous financial year of the association, commencing on 1 July and ending on the following 30 June.