



Pearl Beach Progress Association Inc

# CONSTITUTION

Adopted 2 September 2023

# Contents

Part 1	Preliminary .....	1
1	Objectives, constitution and definitions .....	1
Part 2	Members of association .....	2
2	Membership categories .....	2
3	Membership generally .....	2
4	Membership applications .....	2
5	Register of members .....	3
6	Fees and subscriptions .....	4
7	Members' liabilities .....	4
8	Disciplinary action against members .....	4
9	Right of appeal against disciplinary action .....	5
10	Resolution of internal disputes .....	5
11	Membership entitlements not transferable .....	6
12	Member resignation .....	6
13	Cessation of membership .....	6
Part 3	Executive committee .....	6
14	Functions of executive committee .....	6
15	Composition of executive committee .....	7
16	Election of executive committee members .....	7
17	Terms of office .....	8
18	Vacancies in office .....	8
19	Secretary .....	9
20	Treasurer .....	9
21	Delegation to subcommittees .....	9
22	Executive committee meetings .....	10
23	Notice of executive committee meeting .....	11
24	Quorum .....	11
25	Presiding executive committee member .....	11
26	Voting .....	12
27	Acts valid despite vacancies or defects .....	12
28	Transaction of business .....	12
Part 4	General meetings of association .....	12
29	Annual general meetings .....	12
30	Special general meetings .....	13
31	Notice of general meeting .....	14
32	Quorum .....	14
33	Adjourned meetings .....	14
34	Presiding member .....	15
35	Voting .....	15
36	Electronic and in-person paper ballots .....	16
37	Transaction of business outside meetings or by telephone or other means .....	16
Part 5	Administration .....	17
38	Policy guideline .....	17
39	Change of name, objectives or constitution .....	17
40	Funds .....	17
41	Insurance .....	17
42	Non-profit status .....	18
43	Service of notices .....	18
44	Custody of records and books .....	18
45	Inspection of records and books .....	18
46	Financial year .....	19
47	Distribution of property on winding up .....	19

# Part 1 Preliminary

## 1 Objectives, constitution and definitions

### Objectives

- To promote the best interests of the rate-payers and residents of Pearl Beach and to support those Activities in other parts of the Central Coast Council area that are in the best interests of the rate- payers and residents of Pearl Beach.
- To protect and enhance the environment and encourage nature conservation within the village of Pearl Beach.
- To maintain in good condition the association's property at Pearl Beach and to manage the association's memorial community hall.

### Constitution

The constitution of an incorporated association forms the structure within which the association operates. NSW Fair Trading has prepared a model constitution, under the *Associations Incorporation Act 2009*, which covers the matters required by law. This Constitution is a modified version of the model constitution dated 1 September 2022.

### Definitions

(1) In this constitution:

**cloud storage** means computer data storage in which the digital data is stored in logical pools, said to be on "the cloud". The physical storage spans multiple servers, and the physical environment is owned and managed by a hosting company.

**executive committee member** means an office-bearer or ordinary executive committee member.

**exercise** a function includes perform a duty.

**function** includes a power, authority or duty.

**office-bearer** means an executive committee member who is elected to an office referred to in clause 15(1)(a)(i) - (vi).

**ordinary executive committee member** means an executive committee member who is not an office-bearer.

**register of members** means the register of members maintained under clause 4.

**secretary**, of the association, means:

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

**special general meeting**, of the association, means a general meeting of the association other than an annual general meeting which has been called for a specific purpose.

**subcommittee** means a subcommittee established under clause 21.

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

**the Regulation** means the *Associations Incorporation Regulation 2022*.

**Note:** The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this constitution.

- (2) The *Interpretation Act 1987* applies to this constitution as if it were an instrument made under the Act.

**Note:** The Act, Part 4 deals with various matters relating to the management of associations.

## Part 2 Members of association

### 2 Membership categories

- (a) **Full membership** is available to those persons, eighteen years of age and over, who reside in, or are rate payers of property in Pearl Beach, and the immediate families of such persons.
- (b) **Life membership** is an honour bestowed on an individual member of the association whose exceptional commitment and outstanding service and contribution has provided a measurable benefit to the association over an extended period of time of five years or more. Membership should be awarded rarely and only for exceptional service. A life member shall not be required to pay membership fees for that membership. A life member may vote and has all the rights and privileges of a full member.
- (c) **Friend membership** recognises that a person, eighteen years of age and over, who has a strong bond with Pearl Beach may not formally meet the membership criteria of the association as a resident or ratepayer. A friend member is welcome to participate at meetings and association activities but does not have voting rights or the right to hold office.

### 3 Membership generally

A person is taken to be a member of the association if the person is a natural person,

- (a) who has applied for membership of the association as provided by clause 4, and
- (b) who has been approved for membership.

### 4 Membership applications

- (1) An application by a person to be a member of the association must be:
- (a) made in writing, and
- (b) in the form determined by the executive committee, and
- (c) pay the annual membership fee, and
- (d) lodged with the secretary or other delegated member of the executive committee.
- (2) The executive committee may determine that an application may be made or lodged by email or other electronic means.
- (3) The application must be referred to the executive committee as soon as practicable after the application is received.
- (4) The executive committee must approve or reject the application.

- (5) As soon as practicable after the executive committee has decided the application, the secretary (or delegate) must:
  - (a) give the applicant written notice of the decision, including by email or other electronic means if determined by the executive committee, and
  - (b) if the application is not approved their membership fee will be refunded within 28 days of the day the applicant received the notice.
- (6) The secretary (or delegate) must enter the applicant's name and date of acceptance in the register of members as soon as practicable after the applicant is approved.
- (7) The applicant becomes a member once the applicant's name is entered in the register.

## **5 Register of members**

- (1) The secretary (or delegate) must establish and maintain a register of members of the association.
- (2) The register:
  - (a) may be in written or electronic form, and
  - (b) must include, for each member:
    - (i) the member's full name, and
    - (ii) a residential and postal address (if they differ), and
    - (iii) an email address (if one is available), and
    - (iv) a phone number (if one is available), and
    - (v) the date on which the person became a member, and
    - (vi) if the person ceases to be a member, the date on which the person ceased to be a member, and
  - (c) must be kept in New South Wales if it is in hardcopy form:
    - (i) at the association's main premises, or
    - (ii) at the secretary's official address (or delegate), and
  - (d) must be stored in secure cloud storage, if it is in electronic form, and
  - (e) must be available for inspection, free of charge, by members at a reasonable time, (see sub-clause (4) for limitations on this inspection), and
  - (f) if kept in electronic form, it must be able to be converted to hard copy.
- (3) The association will collect only information which it requires for its primary function and to comply with sub-clause 2(b) and will take reasonable steps to ensure that personal information is protected from misuse, loss, unauthorised access, interference, unauthorised modification and disclosure.
- (4) A member may obtain a hard copy of the list of names on the register on payment of a fee of not more than \$1, as determined by the executive committee, for each page copied.
- (5) Information about a member, other than the member's name, must not be made available for inspection unless the member gives approval.
- (6) A member must not use information about a member obtained from the register to contact or send material to the member:
- (7) A member may inspect their own personal information recorded on the register

at any reasonable hour or request a copy of this information.

- (8) Only the executive committee office bearers will have access to the register of members for the purpose of conducting a function or activity of the association; such as
  - (a) to send a member:
    - (i) a newsletter, or
    - (ii) a notice for a meeting or other event relating to the association, or
    - (iii) other material relating to the association, or
  - (b) it is necessary to comply with a requirement of the Act or the Regulation.

## **6 Fees and subscriptions**

- (1) A member must pay to the association an annual subscription fee as determined by the executive committee, for the financial year in which they join and before the first day of the financial year of the association in each calendar year.
- (2) A member failing to pay their annual subscription before the end of September in any year shall automatically cease to be a member.

## **7 Members' liabilities**

The liability of a member of the association to contribute to the payment of either of the following is limited to the amount of any outstanding fees for the member under clause 6:

- (a) the debts and liabilities of the association,
- (b) the costs, charges and expenses of the winding up of the association.

## **8 Disciplinary action against members**

- (1) A person may make a complaint to the executive committee that a member of the association has:
  - (a) failed to comply with a provision of this constitution, or
  - (b) willfully acted in a way prejudicial to the interests of the association.
- (2) The executive committee may refuse to deal with a complaint if the executive committee considers the complaint is trivial or vexatious.
- (3) If the executive committee decides to deal with the complaint, the executive committee must:
  - (a) serve notice of the complaint on the member, and
  - (b) give the member at least 14 days from the day the notice is served on the member within which to make submissions to the executive committee about the complaint, and
  - (c) consider any submissions made by the member.
- (4) The executive committee may, by resolution, expel the member from the association or suspend the member's membership if, after considering the complaint, the executive committee is satisfied that:
  - (a) the facts alleged in the complaint have been proved, and

- (b) the expulsion or suspension is warranted.
- (5) If the executive committee expels or suspends the member, the secretary must, within seven days of that action being taken, give the member written notice of:
  - (a) the action taken, and
  - (b) the reasons given by the executive committee for taking the action, and
  - (c) the member's right of appeal under clause 9.
- (6) The expulsion or suspension does not take effect until the later of the following:
  - (a) the day the period within which the member is entitled to exercise the member's right of appeal expires, or
  - (b) if the member exercises the member's right of appeal within the period - the day the association confirms the resolution under clause 9.

## **9 Right of appeal against disciplinary action**

- (1) A member may appeal against a resolution of the executive committee under clause 8 by lodging a notice of appeal with the secretary within seven days of being served notice of the resolution.
- (2) The member may include, with the notice of appeal, a statement of the grounds on which the member intends to rely for the purposes of the appeal.
- (3) The secretary must notify the executive committee that the secretary has received a notice of appeal.
- (4) If notified that a notice has been received, the executive committee must call a special general meeting of the association to be held within 28 days of the day the notice was received.
- (5) At the special general meeting:
  - (a) no business other than the question of the appeal is to be transacted, and
  - (b) the member must be given an opportunity to state the member's case orally or in writing, or both, and
  - (c) the executive committee must be given the opportunity to state the executive committee's case orally or in writing, or both, and
  - (d) the members present must vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- (6) The appeal is to be determined by a simple majority of votes cast by the members.

## **10 Resolution of internal disputes**

- (1) The following disputes must be referred to a Community Justice Centre within the meaning of the *Community Justice Centres Act 1983* for mediation:
  - (a) a dispute between two or more members of the association, but only if the dispute is between the members in their capacity as members, or
  - (b) a dispute between one or more members and the association.
- (2) If the dispute is not resolved by mediation within three (3) months of being referred to the Community Justice Centre, the dispute must be referred to arbitration.

- (3) The *Commercial Arbitration Act 2010* applies to a dispute referred to arbitration.

## **11 Membership entitlements not transferable**

A right, privilege or obligation that a person has because the person is a member of the association:

- (a) cannot be transferred to another person, and
- (b) terminates once the person ceases to be a member of the association.

## **12 Member resignation**

- (1) A member of the association may resign from being a member by giving the secretary written notice of at least one month of the member's intention to resign.
- (2) The member ceases to be a member on the expiration of the notice period.

## **13 Cessation of membership**

- (1) A person ceases to be a member of the association if the person:
  - (a) dies, or
  - (b) resigns from being a member, or
  - (c) is expelled from the association, or
  - (d) fails to pay the annual subscription fee before the end of September in any year.
- (2) If a member of the association ceases to be a member under clause 13 (1), and in every other case where a member ceases to hold membership, the secretary (or delegate) must make an appropriate entry in the register of members recording the date on which the member ceased to be a member.

# **Part 3 Executive committee**

## **14 Functions of executive committee**

- (1) Subject to the Act, the Regulation, this constitution, and any resolution passed by the association in a general meeting, the executive 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 a function that is required to be exercised by the association in general meeting, and
  - (c) has power to do all things that are necessary or convenient to be done for the proper management of the affairs of the association, and
  - (d) is to consider, report and make recommendations to the members of the association in general meeting, on all matters relevant to the association's objectives, which are placed before it and on any matters referred to it by a general meeting of members, and
  - (e) is to appoint the public officer of the association in accordance with the Act, and



- (f) appoint life members, and
  - (g) is to carry out its functions for the benefit, so far as practicable, for the association with due diligence and care and a duty to not dishonestly use their positions or information obtained as an executive committee member with the intention directly or indirectly of getting an advantage for themselves or any other person or by causing detriment to the association.
- (2) Executive committee members have a duty to disclose any conflict of interest between their own affairs and the affairs of the association.
  - (3) An executive committee member must not allow the association to trade while insolvent.
  - (4) The Act will provide protection from personal liability for executive committee members (or a person acting under the direction of an executive committee member) who act in good faith while undertaking the executive committee members' functions under the Act. This also covers omissions that were made in good faith.

## **15 Composition of executive committee**

- (1) The executive committee consists of up to eleven (11) members, as elected in accordance with clause 16, consisting of:
  - (a) the following office-bearers:
    - (i) the president,
    - (ii) two vice-presidents,
    - (iii) the secretary,
    - (iv) the assistant secretary
    - (v) the treasurer
    - (vi) the publicity officer, and
  - (b) four ordinary executive committee members.

**Note** - The Act, section 28 contains requirements relating to membership eligibility and composition of the committee.
- (2) An office-bearer may hold up to two offices, other than both the offices of president and vice-president.

## **16 Election of executive committee members**

- (1) Any member of the association may be nominated as a candidate for election as an office-bearer or ordinary executive committee member.
- (2) The nomination must be:
  - (a) made in writing, and
  - (b) signed by at least two (2) members of the association, not including the candidate, and
  - (c) accompanied by the written consent of the candidate to the nomination, and
  - (d) given to the secretary by 5:00pm at least fourteen (14) days before the date fixed for the annual general meeting at which the election is to be declared.

- (3) If insufficient nominations are received to fill all vacancies:
  - (a) the candidates nominated are taken to be elected, and
  - (b) a call for further nominations must be made at the meeting.
- (4) A nomination made at the meeting in response to a call for further nominations must be made in the way directed by the member presiding at the meeting.
- (5) Vacancies that remain after a call for further nominations are taken to be casual vacancies.
- (6) If the number of nominations received is equal to the number of vacancies to be filled, the members nominated are taken to be elected.
- (7) If the number of nominations received is more than the number of vacancies to be filled, a ballot must be held at the meeting in the way directed by the executive committee.

## **17 Terms of office**

- (1) Subject to this constitution, an executive committee member holds office from the time the member is elected until immediately after the next annual general meeting.
- (2) There is no limit on the number of consecutive terms for which an executive committee member may hold office.

## **18 Vacancies in office**

- (1) A casual vacancy in the office of an executive committee member arises if the member:
  - (a) dies, or
  - (b) ceases to be a member of the association, or
  - (c) resigns from office by written notice given to the secretary, or
  - (d) is removed from office by the association under this clause, or
  - (e) is absent from three consecutive meetings of the executive committee without the consent of the executive committee, or
  - (f) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth, or
  - (g) is prohibited from being a director of a company under the *Corporations Act 2001* of the Commonwealth, Part 2D.6, or
  - (h) is convicted of an offence involving fraud or dishonesty for which the maximum penalty is imprisonment for at least 3 months, or
  - (i) becomes a mentally incapacitated person.
- (2) The association in general meeting may, by resolution:
  - (a) remove an executive committee member from office at any time, and
  - (b) appoint another member of the association to hold office for the balance of the executive committee member's term of office.
- (3) An executive committee member to whom a proposed resolution referred to in sub-clause (2) relates, may:
  - (a) give a written statement, of a reasonable length, to the president or secretary, and

- (b) request that the executive committee send a copy of the statement to each member of the association at least seven days before the general meeting at which the proposed resolution will be considered.
- (4) If the executive committee fails to send a copy of a statement received under sub-clause (3)(a) to each member in accordance with a request made under sub-clause (3)(b), the statement must be read aloud by the member presiding at the general meeting at which the proposed resolution will be considered.
- (5) The executive committee may appoint a member of the association to fill a casual vacancy other than a vacancy arising from the removal from office of an executive committee member.
- (6) Subject to this constitution, a member appointed to fill a casual vacancy holds office until the next annual general meeting.

## **19 Secretary**

- (1) As soon as practicable after being elected as secretary, the secretary must lodge a notice with the association specifying the secretary's address.
- (2) The executive committee may appoint another person from the executive committee to undertake specific delegated duties of the secretary.
- (3) The secretary must keep minutes of:
  - (a) all elections of executive committee members, and
  - (b) the names of executive committee members present at a meeting of the executive committee or a general meeting, and
  - (c) all proceedings at executive committee meetings and general meetings.
- (4) The minutes must be:
  - (a) kept in written or electronic form, and
  - (b) approved at the following executive meeting (for executive meetings) or general meeting (for general meetings), filed on the association secure cloud site and then placed on the association website.

## **20 Treasurer**

The treasurer of the association must ensure—

- (a) all money owed to the association is collected, and
- (b) all payments authorised by the association are made, and
- (c) correct books and accounts are kept showing the financial affairs of the association, including full details of receipts and expenditure relating to the association's activities, and
- (d) an annual financial report is prepared, and
- (e) all financial information is provided to enable an independent audit, and
- (f) an audited financial report and balance sheet of the association is presented to the annual general meeting.

## **21 Delegation to subcommittees**

- (1) The executive committee may:

- (a) establish one or more subcommittees to assist the committee to exercise the executive committee's functions, and
  - (b) appoint one or more members of the association to be the members of the subcommittee, and
- (2) Each subcommittee shall consist of not less than three members.
- (3) Each subcommittee is to create its terms of reference and the executive committee approves all terms of reference.
- (4) The terms of reference and the membership of each subcommittee shall be confirmed at a general meeting.
- (5) The terms of reference and the membership of each subcommittee shall be reviewed after each annual general meeting and any changes taken to the next general meeting to be confirmed.
- (6) The terms of reference shall specify the scope and responsibilities of the subcommittee, any restrictions, its duration (time limited or ongoing), financial delegations and limitations, and the number of members required for a quorum.
- (7) The terms of reference of a subcommittee may be revoked by a decision taken at a general meeting.
- (8) A subcommittee may meet, conduct its business and adjourn as it thinks proper.
- (9) Each subcommittee shall report to the executive committee and the general meetings:
  - (a) the outcomes of any meetings, and
  - (b) any actions taken including financial details, and
  - (c) a final report if the subcommittee is to be disbanded.
- (10) Each subcommittee shall provide a summary of activities by the end of August to the president to be included in the association's annual report.
- (11) Unless specifically authorised a subcommittee cannot make binding decisions or policy for the association. A subcommittee can make recommendations to the executive committee concerning matters that require specific decisions or policy.
- (12) A subcommittee must seek approval from the executive committee before making an application for grant or sponsorship money.
- (13) A subcommittee should always have regard to the objectives and any areas of risk (physical, legal, financial and reputational) for the association when exercising its function.
- (14) The executive committee may delegate to the subcommittee the exercise of the executive committee's functions specified in the terms of reference, other than:
  - (a) this power of delegation, or
  - (b) a duty imposed on the executive committee by the Act or another law.

**Note:** The *Interpretation Act 1987*, section 49 deals with various matters relating to delegations.

## 22 Executive committee meetings

- (1) The executive committee must meet at least six times in each 12-month period at the place and time determined by the executive committee.

- (2) Additional meetings of the executive committee may be called by any executive committee member.

## **23 Notice of executive committee meeting**

- (1) The secretary must give each executive committee member oral or written notice of a meeting of the executive committee at least 48 hours, or another period on which the executive committee members unanimously agree, before the time the meeting is due to commence.
- (2) The notice must describe the general nature of the business to be transacted at the meeting.
- (3) The only business that may be transacted at the meeting is:
  - (a) the business described in the notice, and
  - (b) business that the executive committee members present at the meeting unanimously agree is urgent business.

## **24 Quorum**

- (1) The quorum for a meeting of the executive committee is four (4) executive committee members.
- (2) No business may be transacted by the executive committee unless a quorum is present.
- (3) If a quorum is not present within half an hour of the time the meeting commences, the meeting is adjourned:
  - (a) to the same place, and
  - (b) to the same time of the same day in the following week.
- (4) If a quorum is not present within half an hour of the time the adjourned meeting commences, the meeting is dissolved.
- (5) If the number of executive committee members is less than four (4) for an adjourned executive committee meeting, the executive committee members may appoint one (1) or more members of the association as executive committee members to enable the quorum to be constituted.
- (6) An executive committee member appointed under sub-clause (5) holds office, subject to this constitution, until the next annual general meeting.
- (7) This clause does not apply to the filling of a casual vacancy to which clause 18 applies.

**Note:** The Act, section 28A provides for the filling of vacancies on the committee to constitute a quorum.

## **25 Presiding executive committee member**

- (1) The following executive committee member presides at a meeting of the executive committee:
  - (a) the president,
  - (b) if the president is absent one of the vice-presidents,
  - (c) if the president and vice-presidents are absent - one of the members present at the meeting, as elected by the other members.
- (2) The member presiding at the meeting has:

- (a) a deliberative vote, and
- (b) in the event of an equality of votes, a second or casting vote.

## **26 Voting**

A decision supported by a majority of the votes cast at a meeting of the executive committee or a subcommittee at which a quorum is present is the decision of the executive committee or subcommittee.

## **27 Acts valid despite vacancies or defects**

- (1) Subject to clause 24(1), the executive committee may act despite there being a casual vacancy in the office of an executive committee member.
- (2) An act done by an executive committee or subcommittee is not invalidated because of a defect relating to the qualifications or appointment of a member of the executive committee or subcommittee.

## **28 Transaction of business**

- (1) The executive committee may transact its business by the circulation of papers, including by electronic means, among all executive committee members.
- (2) If the executive committee transacts business by the circulation of papers, a written resolution, approved in writing by a majority of executive committee members, is taken to be a decision of the executive committee made at a meeting of the executive committee.
- (3) The executive committee may transact its business at a meeting at which one or more executive committee members participate by telephone or other electronic means, provided a member who speaks on a matter can be heard by the other members.
- (4) The member presiding at the meeting and each other member have the same voting rights as they would have at an ordinary meeting of the executive committee for the purposes of:
  - (a) the approval of a resolution under sub-clause (2), or
  - (b) a meeting held in accordance with sub-clause (3).
- (5) A resolution approved under sub-clause (2) must be recorded in the minutes of the meetings of the executive committee.

**Note:** The Act, section 30(2) and (3) contains requirements relating to meetings held at 2 or more venues using technology.

# **Part 4 General meetings of association**

## **29 Annual general meetings**

- (1) The association must, at least once in each calendar year and within the period of six (6) months after the expiration of each financial year of the association, convene an annual general meeting of its members.
- (2) Sub-clause (1) has effect subject to any extension or permission granted by the Commissioner under section 37 (2) (b) of the Act.
- (3) Subject to the Act and sub-clauses (1) and (2), the annual general meeting is to

be held at the place and time determined by the executive committee.

- (4) An annual general meeting must be specified as that type of meeting in the notice convening it.
- (5) Notice of an annual general meeting must be given in writing and sent to each member at the member's address or email, as appearing in the register of members, at least twenty-one (21) days before the date of the meeting.
- (6) The business that may be transacted at an annual general meeting includes the following:
  - (a) confirming the minutes of the previous annual general meeting and any special general meetings held since the previous annual general meeting,
  - (b) receiving a report from the president on the association's activities during the previous financial year,
  - (c) declaring the results of the election of office-bearers and ordinary executive committee members, (Note - this is to ensure the process of both electronic and traditional ballot paper process is managed according to the Constitution.)
  - (d) receiving and considering financial statements or reports required to be submitted to members of the association under the Act,
  - (e) appointing an auditor.

**Note:** The Act, section 37(1) and (2) provides for when annual general meetings must be held.

### **30 Special general meetings**

- (1) The executive committee may call a special general meeting whenever the executive committee thinks fit.
- (2) The executive committee must call a special general meeting if the executive committee receives a request made by at least 5% of the total number of members.
- (3) The request:
  - (a) must be in writing, and
  - (b) must state the purpose of the meeting, and
  - (c) must be signed by the members making the request, and
  - (d) may consist of more than one (1) document in a similar form signed by 1 or more members, and
  - (e) must be lodged with the secretary, and
  - (f) may be in electronic form and signed and lodged by electronic means.
- (4) If the executive committee fails to call a special general meeting within one (1) month of the request being lodged, one or more of the members who made the request may call a special general meeting to be held within three (3) months of the date the request was lodged.
- (5) A special general meeting held under sub-clause (4) must be conducted, as far as practicable, in the same way as a general meeting called by the executive committee.

### **31 Notice of general meeting**

- (1) Ordinary general meetings may be held at times decided by the executive committee at least six (6) times in each period of 12 months.
- (2) The secretary must give each member notice of a general meeting:
  - (a) if a matter to be determined at the meeting requires a special resolution - at least 21 days before the meeting, or
  - (b) otherwise - at least seven days before the meeting.
- (3) The notice must specify:
  - (a) the place and time at which the meeting will be held, and
  - (b) the nature of the business to be transacted at the meeting, and
  - (c) if a matter to be determined at the meeting requires a special resolution - that a special resolution will be proposed, and
  - (d) for an annual general meeting - that the meeting to be held is an annual general meeting.
- (4) The only business that may be transacted at the meeting is:
  - (a) the business specified in the notice, and
  - (b) for an annual general meeting - business referred to in clause 29 (6).
- (5) A member may give written notice to the secretary of business the member wishes to raise at a general meeting.
- (6) If the secretary receives a notice under sub-clause (4), the secretary must specify the nature of the business in the next notice calling a general meeting.

### **32 Quorum**

- (1) The quorum for a general meeting is seven members of the association entitled to vote under this constitution.
- (2) No business may be transacted at a general meeting unless a quorum is present.
- (3) If a quorum is not present within half an hour of the time the meeting commences, the meeting:
  - (a) if called on the request of members is dissolved, or
  - (b) otherwise is adjourned:
    - (i) to the same time of the same day in the following week, and
    - (ii) to the same place, unless another place is specified by the member presiding at the meeting at the time of the adjournment or in a written notice given to members at least one day before the adjourned meeting.
- (4) If a quorum is not present within half an hour of the time an adjourned meeting commences, but there are at least three members present, the members present constitute a quorum.

### **33 Adjourned meetings**

- (1) The member presiding at a general meeting may, with the consent of the majority of the members present, adjourn the meeting to another time and place.



- (2) The only business that may be transacted at the adjourned meeting is the business remaining from the meeting at which the adjournment took place.
- (3) If a meeting is adjourned for at least 14 days, the secretary must give each member oral or written notice, at least one day before the adjourned meeting, of:
  - (a) the time and place at which the adjourned meeting will be held, and
  - (b) the nature of the business to be transacted at the adjourned meeting.

### **34 Presiding member**

- (1) The following member presides at a general meeting:
  - (a) the president,
  - (b) if the president is absent one of the vice-presidents,
  - (c) if the president and vice-presidents are absent, one of the members present at the meeting, as elected by the other members.
- (2) The member presiding at the meeting has:
  - (a) a deliberative vote, and
  - (b) in the event of an equality of votes - a second or casting vote.

### **35 Voting**

- (1) A member is not entitled to vote for the election of executive committee members or agenda items at the annual general meeting unless the member:
  - (a) is at least 18 years of age, and
  - (b) has paid all money owed by the member to the association.
- (2) Each member has one vote, except as provided by clause 34(2)(b).
- (3) A question raised at the meeting must be decided by:
  - (a) a show of hands, or
  - (b) if clause 36 applies - an appropriate method as determined by the executive committee, or
  - (c) a written ballot, but only if:
    - (i) the member presiding at the meeting moves that the question be decided by ballot, or
    - (ii) at least five (5) members agree the question should be determined by ballot.
- (4) If a question is decided using a method referred to in sub-clause (3)(a) or (b), either of the following is sufficient evidence that a resolution has been carried, whether unanimously or by a majority, or lost, using the method:
  - (a) a declaration by the member presiding at the meeting,
  - (b) an entry in the association's minute book.
- (5) A written ballot must be conducted in accordance with the directions of the member presiding.
- (6) An ordinary resolution is passed by a simple majority.
- (7) A special resolution must be passed by 75% of the members present. Twenty-one (21) days notice must be given for a special general meeting to consider a

special resolution.

- (8) A member cannot cast a vote by proxy.

### **36 Electronic and in-person paper ballots**

- (1) The association may hold an electronic ballot and/or in-person paper ballot, as determined by the executive committee, to decide any matter including election of executive committee members other than an appeal under clause 9.
- (2) The ballot for the election of office-bearers and ordinary members of the executive committee is to be conducted electronically, with the provision for a paper ballot for those who do not wish to use the electronic process, in such a proper manner as the executive committee may direct. This vote may be held before the annual general meeting. The results will be declared at the annual general meeting.
- (3) The executive committee must appoint a returning officer for the ballot who may be a member of the association.
  - (a) despite sub-clause (3), an executive committee member of the association may not be appointed as a returning officer.
  - (b) The returning officer may appoint any person who would be eligible to be a returning officer to assist in the performance of their duties.
- (4) The ballot must be conducted in accordance with Schedule 2 of the Regulation.

### **37 Transaction of business outside meetings or by telephone or other means**

- (1) The association may transact its business by the circulation of papers, including by electronic means, among all members of the association.
- (2) If the association transacts business by the circulation of papers, a written resolution, approved in writing by a majority of members, is taken to be a decision of the association made at a general meeting.
- (3) The association may transact its business at a general meeting at which one or more members participate by telephone or other electronic means, provided a member who speaks on a matter can be heard by the other members.
- (4) Any member who wishes to use a telephone connection or other means of electronic communication shall inform the secretary at least three days before the meeting so the arrangements can be made. Such arrangements are at the discretion of the secretary, president and one other executive committee member.
- (5) The member presiding at the meeting and each other member have the same voting rights as they would have at an ordinary meeting of the association for the purposes of:
  - (a) the approval of a resolution under sub-clause (2), or
  - (b) a meeting held in accordance with sub-clause (3).
- (6) A resolution approved under sub-clause (2) must be recorded in the minutes of the meetings of the association.

**Note:** The Act, section 37(3) and (4) contains requirements relating to meetings held at 2 or more venues using technology.

## **Part 5 Administration**

### **38 Policy guideline**

- (1) The executive committee shall prepare policy guidelines about the association's activities and administrative responsibilities including (but not limited to):
  - (a) financial management, financial delegations and limits, and
  - (b) management of the hall, and
  - (c) subcommittee terms of reference and protocols, and
  - (d) risk management, and
  - (e) privacy
- (2) These policy guidelines shall be approved by the executive committee and presented at a general meeting for endorsement. They shall be binding on the operations of the association.
- (3) They shall be reviewed every two years.

### **39 Change of name, objectives or constitution**

An application for registration of a change in the association's name, objectives or constitution made under the Act, section 10 must be made by:

- (a) the public officer, or
- (b) an executive committee member.

**(Note duties of the public officer are contained in Division 2 of the Act)**

### **40 Funds**

- (1) Subject to a resolution passed by the association, the association's funds may be derived from the following sources only:
  - (a) the annual subscription fees payable by members,
  - (b) donations,
  - (c) other sources as determined by the executive committee.
- (2) Subject to a resolution passed by the association, the association's funds and assets must be used to pursue the association's objects in the way that the executive committee determines.
- (3) As soon as practicable after receiving money, the association must deposit the money, without deduction, to the credit of the association's authorised deposit-taking institution account.
- (4) A cheque or other negotiable instrument, including electronic transfer, must be signed by two authorised signatories.

**Note:** The Act, section 36 provides for the appointment of authorised signatories.

### **41 Insurance**

The association will take out and maintain insurance as appropriate for the association's assets, liabilities and activities.

## **42 Non-profit status**

Subject to the Act and the Regulation, the association must not conduct the association's affairs in a way that provides a pecuniary gain for a member of the association.

**Note:** See the Act, section 40.

## **43 Service of notices**

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

## **44 Custody of records and books**

- (1) Except as otherwise provided by this constitution, all hardcopy records, books and other documents relating to the association must be kept in New South Wales:
  - (a) at the association's main premises, or in the custody of either of the following persons, as determined by the executive committee:
    - (i) the public officer, or
    - (ii) a member of the association.
- (2) All electronic records relating to the association must be kept on secure cloud storage.

## **45 Inspection of records and books**

- (1) The following documents must be available for inspection, free of charge, by members of the association at a reasonable time:
  - (a) this constitution,
  - (b) minutes of executive committee meetings and general meetings of the association,
  - (c) records, books and other documents relating to the association.
- (2) A member may inspect a document referred to in sub-clause (1):

- (a) in hard copy, or
  - (b) in electronic form, if available.
- (3) A member may obtain a hard copy of a document referred to in sub-clause (1) on payment of a fee of not more than \$1, as determined by the executive committee, for each page copied.
- (4) The executive committee may refuse to allow a member to inspect or obtain a copy of a document under this clause:
- (a) that relates to confidential, personal, commercial, employment or legal matters, or
  - (b) if the executive committee considers it would be prejudicial to the interests of the association for the member to do so.

## 46 Financial year

The association's financial year is:

- (a) the period 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, commencing on 1 July and ending on the following 30 June.

## 47 Distribution of property on winding up

- (1) Subject to the Act and the Regulation, in a winding up of the association, the surplus property of the association must be transferred to another organisation:
- (a) with similar objects, and
  - (b) which is not carried on for the profit or gain of the organisation's members.
- (2) In this clause:

***surplus property*** has the same meaning as in the Act, section 65.