

EcoNetwork – Port Stephens Inc.

Constitution

Under the Associations Incorporation Act 2009 [NSW]

First Nations Acknowledgement

EcoNetwork Port Stephens acknowledges that the First Nations Peoples of Australia hold unique knowledge and rights inherited from their ancestors and Country and have cared for this country since time immemorial.

We recognise that sovereignty was never ceded, and that colonisation was unjust, often violent and continues to adversely impact on First Nations Peoples today.

As Port Stephens environmental nature network organisation, we understand we have a responsibility to help right this historical wrong.

We pay our respect to the First Nations Peoples of Australia, past, present and future. We respect their leadership in caring for Country and support their rights to continue to do so.

We support their authority to speak for Country, right to self-determination and recognise that rightful recognition of and genuine reconciliation with First Nations Peoples is fundamental to protecting nature in Australia.

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Part 1 Preliminary

1 Overview

- (1) The name of the association is EcoNetwork Port Stephens Inc (*the association*).
- (2) The association is an incorporated association that is established to operate on a not-for-profit and non party-political basis.
- (3) This constitution is binding on each member of the association.

2 Definitions

- (1) In this constitution:

affiliated member— see clause 4.

individual member— see clause 4.

member representative— see clause 8.

objects (in relation to the association)— see clause 3.

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 of the association.

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

person includes an individual and any association, body or entity whether incorporated or not.

the Act means the *Associations Incorporation Act 2009* [NSW].

the association means EcoNetwork — Port Stephens Inc.

the Regulation means the *Associations Incorporation Regulation 2016* [NSW].

- (2) In this constitution:

- (a) a reference to a function includes a reference to a power, authority and duty, and
- (b) a reference to the exercise of a function includes, if the function is a duty, a reference to the performance of the duty, and
- (c) a reference to any notice or document made in writing includes a reference to that notice or document being conveyed by email or other electronic means.

- (3) The provisions of the *Interpretation Act 1987* [NSW] apply to and in respect of this constitution in the same manner as those provisions would so apply if this constitution were an instrument made under the Act.

- (4) Notes are provided for explanation and to assist understanding, but do not form part of this constitution.

3 Objects

The objects of the association (*objects*) are to advance the natural and cultural heritage of Port Stephens and surrounding areas, and in particular:

- (a) to conserve terrestrial and marine ecosystems, and
- (b) to conserve cultural including First Nations Peoples heritage, and
- (c) to promote ecologically sustainable communities and neighbourhoods, and
- (d) to address climate change, and
- (e) to undertake environmental education, and
- (f) to advocate in connection with the above matters, for public benefit and not aligned with any political party or candidate for political office, and
- (g) to act as a community network that supports and enables residents, community groups and businesses to develop positive local responses to environmental and natural and cultural heritage issues.

Part 2 Membership

4 Membership generally

- (1) The association is to have the following membership categories:
- (b) *individual members*—which is to be open to individuals, and
 - (b) *affiliated members*—which is to be open to persons other than individuals, including community organisations, resident groups and businesses.
- (2) Any person that supports the association's objects and its constitution is eligible to apply for membership under clause 5.

5 Application for membership

- (1) An application for membership of the association:
- (a) must be made in writing in the form determined by the committee, and
 - (b) must state that the applicant supports the association's objects, and agrees to comply with the association's constitution, and
 - (c) if the applicant is not an individual—must, on request by the secretary, provide any details of the applicant's objects, governing rules, business or activities that the committee requires, and
 - (d) must be lodged with the secretary of the association.

- (2) As soon as practicable after receiving an application for membership, the secretary must refer the application to the committee, which is to determine whether to approve or to reject the application.
- (3) The committee must not approve an application for membership unless it is satisfied that:
 - (a) the applicant supports the association's objects, and
 - (b) if the applicant is not an individual—the applicant's objects, business or activities are compatible with the association's objects.
- (4) As soon as practicable after the committee makes its determination, the secretary must:
 - (a) notify the applicant in writing that the committee approved or rejected the application (whichever is applicable), and
 - (b) if the committee approved the application, request the applicant to pay (within the period of 28 days after receipt by the applicant of the notification) the sum payable under this constitution by a member as entrance fee and annual subscription.
- (5) The secretary must, on payment by the applicant of the amounts referred to in subclause (4) (b) within the period referred to in that provision, enter or cause to be entered the applicant's name in the register of members and, on the name being so entered, the applicant becomes a member of the association within the relevant membership category.

6 Cessation of membership

A person ceases to be a member of the association if the person:

- (a) dies, or
- (b) is wound up or otherwise dissolved, disbanded or deregistered, or
- (c) resigns membership, or
- (d) is expelled from the association, or
- (e) fails to pay the annual membership fee under clause 11 (2) within 3 months after the fee is due.

7 Membership entitlements

- (1) An individual member (subject to this constitution):
 - (a) is entitled to receive notice of, and attend, speak and vote at general meetings, and
 - (b) may hold office as a committee member, and
 - (c) has any other rights, privileges or obligations that are provided under this constitution or the Act.
- (2) An affiliated member (subject to this constitution):

- (a) is entitled to receive notice of, and attend, speak and vote at general meetings, and
 - (b) must appoint a member representative under clause 8 in order to exercise those rights, and
 - (c) has any other rights, privileges or obligations that are provided under this constitution or the Act.
- (4) A right, privilege or obligation which a person has by reason of being a member of the association or a member representative:
- (a) is not capable of being transferred or transmitted to another person, and
 - (b) terminates upon the person ceasing to be a member or a member representative (as the case may be).

8 Appointment of member representatives

- (1) An affiliated member may appoint an individual (*a member representative*) for the purpose of exercising the member's rights in connection with a general meeting.
- (2) The appointment may include an alternate who is authorised to act in the absence of the member representative, but only for the purpose referred to in subclause (1).
- (3) To be effective, 3 hours' notice of the appointment must be given to the association. The notice must:
 - (a) be in writing, and
 - (b) include the name and contact details of the representative and any alternate, and
 - (c) state the term during which the appointment remains current, and
 - (c) be signed on behalf of the affiliated member by an authorised officer.
- (4) A member representative has all the rights of an affiliated member relevant to the purposes of their appointment as a member representative.
- (5) A person ceases to be a member representative if:
 - (a) the person dies, or
 - (b) the person's term of appointment expires, or
 - (c) the affiliated member notifies the association that the person is no longer authorised to act as a representative, or
 - (d) the body that appointed the representative ceases to be a member.

9 Resignation of membership

- (1) A member of the association may resign from membership of the association by first giving to the secretary written notice of at least 1 month (or any other period that the committee may determine) of the member's intention to resign and, on the expiration of the period of notice, the member ceases to be a member.
- (2) If a member of the association ceases to be a member under subclause (1), and in every other case where a member ceases to hold membership, the secretary must

make an appropriate entry in the register of members recording the date on which the member ceased to be a member.

10 Register of members

- (1) The secretary must establish and maintain a register of members of the association (whether in written or electronic form).
- (2) The register must record for each current member:
 - (a) the member's full name, and
 - (b) the member's postal, residential or email address, and
 - (c) the relevant membership category, and
 - (d) the date that membership commenced.
- (3) The register must also record for each current affiliated member:
 - (a) the name of any member representative or alternate whose appointment has been notified to the secretary under clause 8 (3), and
 - (b) the postal, residential or email address of any such member representative or alternate, and
 - (c) the term during which the appointment remains current.
- (4) 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.
- (5) The register of members must be open for inspection, free of charge, by any member of the association at any reasonable hour.
- (6) A member of the association may obtain a copy of any part of the register on payment of a fee of not more than \$1 for each page copied.
- (7) 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.
- (8) 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.
- (9) If the register of members is kept in electronic form:
 - (a) it must be convertible into hard copy, and
 - (b) the requirements in subclauses (4) and (5) apply as if a reference to the register of members is a reference to a current hard copy of the register of members.

11 Fees and subscriptions

- (1) A member of the association, on admission to membership, is required to pay to the association a joining fee as determined by the committee.
- (2) In addition to any amount payable by the member under subclause (1), a member of the association must pay to the association an annual membership fee as determined by the committee.

12 Members' liabilities

The liability of a member of the association to contribute towards the payment of the debts and liabilities of the association or the costs, charges and expenses of the winding up of the association is limited to the amount, if any, unpaid by the member in respect of membership of the association as required by clause 11.

13 Resolution of disputes

- (1) The procedure for resolution of disputes under this clause applies to any dispute arising under this constitution between one or more members and:
 - (a) one or more other members, or
 - (b) the association.
- (2) The parties to a dispute must attempt in good faith to resolve it between themselves within 14 days. But if they are unable to do so they must immediately inform the committee in writing of the general nature of the dispute, and that they wish to settle it by mediation.
- (3) Before entering into mediation, each party must sign an agreement in which they acknowledge and agree to abide by the mediation guidelines set out in the agreement.
- (4) The mediator is to be chosen by agreement of those involved, or failing such agreement, is to be chosen by the committee.
- (5) The mediator:
 - (a) need not be a current member or member representative, and
 - (b) must not have a personal interest in the dispute, and
 - (c) must not be biased towards or against anyone involved in the dispute, and
 - (d) must conduct the mediation in a way that allows each party a reasonable opportunity to be heard and to review any written statements, and
 - (e) must not adjudicate the dispute.
- (6) If the matter is not resolved, it must be referred to a Community Justice Centre for mediation under *the Community Justice Centres Act 1983 [NSW]*.
- (7) 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.
- (8) *The Commercial Arbitration Act 2010 [NSW]* applies to a dispute referred to arbitration.

14 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 15.
- (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 15, whichever is the later.

15 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 14, 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 simple majority of votes cast by members of the association.

Part 3 The committee

16 Powers and duties of the committee

- (1) 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.
- (2) Each committee member must comply with their legal duties as a committee member, including those imposed under the Act or general law.

Note: As a general summary, a committee member's legal duties include:

- to exercise reasonable care and diligence
- to act in good faith in the best interests of the association
- not to misuse the position
- not to misuse information gained through the position
- to disclose any perceived or actual conflicts of interest
- to ensure responsible financial management
- not to allow the association to operate while it is insolvent.

17 Composition and membership of committee

- (1) The committee is to consist of:
- (a) the office-bearers of the association, and
 - (b) at least 1 but no more than 5 ordinary committee members, each of whom is to be:
 - (c) elected at the annual general meeting of the association under clause 18, or
 - (d) appointed by the committee under clause 21.

Note. Section 28 of the Act requires that each committee member must be aged 18 years or more, and that at least 3 committee members must be ordinarily resident in Australia.

- (2) The minimum number of committee members is to be 5, and the maximum number of committee members is to be 9.

- (3) The office-bearers of the association are as follows:
 - (a) the president,
 - (b) the vice-president,
 - (c) the treasurer,
 - (d) the secretary.
- (4) A committee member may hold up to 2 offices (other than both the offices of president and vice-president).
- (5) There is no maximum number of consecutive terms for which a committee member may hold office.
- (6) Each member of the committee, subject to this constitution, commences office at the conclusion of the meeting at which they are elected or appointed, and continues to hold office until the conclusion of the annual general meeting next following the date of the member's election or appointment, and is eligible for re-election or re-appointment.

18 Election of committee members

- (1) A person is eligible to be a candidate for election as a committee member if the person:
 - (a) is an individual member, and
 - (b) is entitled to cast a vote at a general meeting.

Note. In order to be entitled to cast a vote at a general meeting, all money due and payable by the member to the association must be fully paid. Individuals must also be over the age of 18 years. See clause 38.

- (2) The committee must call for nomination of candidates no later than 28 days prior to the date fixed for the holding of the annual general meeting at which the election is to take place. Written notice to that effect is to be given to each member and member representative, and is to contain all information or instructions necessary to enable a candidate to lodge a valid nomination.
- (3) A nomination:
 - (a) may only be accepted if it is made by the candidate, and
 - (b) must be made in writing, and
 - (c) must state each position for which nomination is made, and
 - (d) must be endorsed by at least two other persons who are eligible to be a candidate under subclause (1), and
 - (e) must be received by the secretary of the association at least 24 hours before the date fixed for the holding of the annual general meeting at which the election is to take place.
- (4) If insufficient nominations are received to fill all vacancies on the committee, the candidates nominated are taken to be elected, and any vacant positions remaining on the committee are taken to be casual vacancies.
- (5) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.

- (6) If the number of nominations received exceeds the number of vacancies to be filled, a ballot is to be held.
- (7) 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.
- (8) A person nominated as a candidate for election as an office-bearer or as an ordinary committee member of the association must be an individual member of the association.

19 Secretary

- (1) The secretary of the association must, as soon as practicable after being appointed as secretary, lodge notice with the association of his or her address.
- (2) It is the duty of the secretary to keep minutes (whether in written or electronic form) of:
 - (a) all appointments of office-bearers and members of the committee, and
 - (b) the names of members of the committee present at a committee meeting or a general meeting, and
 - (c) all proceedings at committee meetings and general meetings.
- (3) Minutes of proceedings at a meeting must be signed by the chairperson of the meeting or by the chairperson of the next succeeding meeting.
- (4) The signature of the chairperson may be transmitted by electronic means for the purposes of subclause (3).

20 Treasurer

It is the duty of the treasurer of the association to ensure:

- (a) that all money due to the association is collected and received and that all payments authorised by the association are made, and
- (b) that correct books and accounts are kept showing the financial affairs of the association, including full details of all receipts and expenditure connected with the activities of the association.

21 Casual vacancies

- (1) In the event of a casual vacancy occurring in the membership of the committee, the committee may appoint a person to fill the vacancy.

Note. The term of office of a committee member is specified by clause 17 (6).
- (2) A person appointed under subclause (1) must be eligible for election to the committee under clause 18.
- (3) The committee may act under subclause (1) despite an insufficiency in the number of existing committee members to constitute a quorum for a committee meeting, in which case they may only act for the purpose of correcting that insufficiency.
- (4) A casual vacancy in the office of a member of the committee occurs if the member:
 - (a) dies, or

- (b) ceases to be an individual member, or
- (c) is or becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth, or
- (d) resigns office by notice in writing given to the secretary, or
- (e) is removed from office under clause 22, or
- (f) becomes a mentally incapacitated person, or
- (g) is absent without the consent of the committee from 3 consecutive meetings of the committee, or
- (h) 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
- (i) 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.

22 Removal of committee members

- (1) The association in general meeting may by resolution remove any member of the committee from the office of member 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 president (not exceeding a reasonable length) and requests that the representations be notified to the members of the association, the secretary or the president may send a copy of the representations to each member of the association or, if the representations are not so sent, the member is entitled to require that the representations be read out at the meeting at which the resolution is considered.

23 Committee meetings and quorum

- (1) The committee must meet at least 3 times in each period of 12 months at the place and time that the committee may determine.
- (2) Additional meetings of the committee may be convened by the president or by any member of the committee.
- (3) Oral or written notice of a meeting of the committee 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 general nature of the business to be transacted at the meeting and no business other than that business is to be transacted at the meeting, except business which the committee members present at the meeting unanimously agree to treat as urgent business.
- (5) Half of the committee members plus one (rounded down to the nearest whole number), and including at least 2 office-bearers, constitutes a quorum for the transaction of business at a committee meeting.

- (6) 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 a time and place to be agreed.
- (7) 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.
- (8) At a meeting of the committee:
 - (a) the president or, in the president's absence, the vice-president is to preside, or
 - (b) if the president and the vice-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.

24 Circular resolutions

- (1) The committee members may pass a circular resolution without a committee meeting being held.
- (2) A circular resolution cannot be used to appoint a committee member under clause 21.
- (3) A circular resolution is passed if all committee members entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in subclauses (4) or (5).
- (4) Committee members may sign:
 - (a) a single document setting out the resolution and containing a statement that they agree to the resolution, or
 - (b) separate copies of that document, as long as the wording of the resolution is the same in each copy.
- (5) The secretary may send a circular resolution by email to the committee members, and the committee members may agree to the resolution by sending a reply email to that effect, including the text of the resolution in their reply.

25 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.

26 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 function the exercise of which has been delegated to a sub-committee under this clause may, while the delegation remains unrevoked, be exercised from time to time by the sub-committee in accordance with the terms of the delegation.
- (3) A delegation under this clause may be made subject to any conditions or limitations as to the exercise of any function, or as to time or circumstances, that may be 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 acting in the exercise of a delegation under this clause has the same force and effect as it would have 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 as it thinks proper.

27 Conflicts of interest

Any conflict of interest that may arise from a committee member's participation in a committee meeting or the making of a circular resolution under clause 24 must be managed in accordance with section 31 of the Act and any relevant policy adopted by the committee.

Note. Section 31 of the Act is as follows.

31 Disclosure of interests

- (1) If:
 - (a) a committee member has a direct or indirect interest in a matter being considered or about to be considered at a committee meeting, and
 - (b) the interest appears to raise a conflict with the proper performance of the committee member's duties in relation to the consideration of the matter,the committee member must, as soon as possible after the relevant facts have come to the committee member's knowledge, disclose the nature of the interest at a committee meeting. Maximum penalty: 60 penalty units.
- (2) A disclosure by a committee member at a committee meeting that the committee member:
 - (a) is a member, or is in the employment, of a specified company or other body, or
 - (b) is a partner, or is in the employment, of a specified person, or
 - (c) has some other specified interest relating to a specified company or other body or to a specified person,is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person that may arise after the date of the disclosure and that is required to be disclosed under subsection (1).
- (3) Particulars of any disclosure made under this section must be recorded by the committee in a book kept for that purpose and that book must be open at all reasonable hours to inspection by any member of the association on payment of the fee determined by the committee (but not exceeding the maximum fee prescribed by the regulations).
- (4) The book must be kept at the same address as the register of committee members.
- (5) After a committee member has disclosed the nature of an interest in any matter, the committee member must not, unless the committee otherwise determines:
 - (a) be present during any deliberation of the committee with respect to the matter, or

- (b) take part in any decision of the committee with respect to the matter.
- (6) For the purposes of the making of a determination by the committee under subsection (5), a committee member who has a direct or indirect interest in a matter to which the disclosure relates must not:
 - (a) be present during any deliberation of the committee for the purpose of making the determination, or
 - (b) take part in the making by the committee of the determination.
- (7) A contravention of this section does not invalidate any decision of the committee.

28 Voting and decisions

- (1) Questions arising at a meeting of the committee or of any sub-committee appointed by the committee are to be determined by a majority of the votes of members of the committee or sub-committee present at the meeting.
- (2) Each member present at a meeting of the committee or of any sub-committee appointed by the committee (including the person presiding at the meeting) is entitled to one vote but, in the event of an equality of votes on any question, the person presiding may exercise a second or casting vote.
- (3) Subject to clause 23 (5), the committee may act despite any vacancy on the committee.
- (4) Any act or thing done or suffered, or purporting to have been done or suffered, by the committee or by a sub-committee appointed 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 or sub-committee.

Part 4 General meetings

29 Annual general meetings - holding of

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.

30 Annual general meetings - calling of and business at

- (1) The annual general meeting of the association is, subject to the Act and to clause 29, to be convened on the date and at the place and time that the committee thinks fit.
- (2) In addition to any other business which may be transacted at an annual general meeting, 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 of the association and ordinary committee members,

- (d) to receive and consider any financial statement or report required to be submitted to members under the Act.
- (3) The chairperson of an annual general meeting must give members a reasonable opportunity at the meeting to ask questions or make comments about the association's affairs.
- (4) An annual general meeting must be specified as that type of meeting in the notice convening it.

31 Special general meetings - calling of

- (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 10% of the total number of members, 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 (or if the member is an affiliated member, by the relevant member representative), 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, at least 50% or more of the group of members who initially 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.

32 Notice

- (1) Except if the nature of the 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, the nature of the business proposed to be transacted at the meeting, and each of the additional matters specified in subclause (5).

- (2) If the nature of the 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 (1), the intention to propose the resolution as a special resolution.

Note. A special resolution must be passed in accordance with section 39 of the Act.

- (3) No business other than that specified in the notice convening a general meeting is to be transacted at the meeting except, in the case of an annual general meeting, business which may be transacted under clause 30 (2).
- (4) A member desiring to bring any business before a general meeting may give notice in writing of that business to the secretary who must include that business in the next notice calling a general meeting given after receipt of the notice from the member.
- (5) Notice of a general meeting under this clause must also include:
- (a) the terms of any proposed resolution placed on notice for consideration by the meeting, and
 - (b) for an annual general meeting—a statement to the effect that any member may ask questions or make comments on any aspect of the association’s affairs, and
 - (c) a statement to the effect that a member may appoint a proxy to speak and vote on their behalf at the meeting, and
 - (d) a copy of any form that the committee has approved for the appointment of a proxy (including instructions for lodgement), and
 - (e) for a meeting being conducted using technology under clause 41—details of the technology being used, and any codes or links by which the meeting may be accessed.
- (6) In this clause, a reference to a member also includes a reference to a member representative.

33 Quorum for general meetings

- (1) No item of 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) Ten per cent of members, comprising no less than 5 members, who are present in person or by representative or by proxy and who are entitled to cast a vote at a general meeting, constitutes a quorum for the transaction of the business at a general meeting.

Note. A member who participates in a general meeting by way of technology in accordance with clause 41 is taken to be present in person.

Note. In order to be entitled to cast a vote at a general meeting, all money due and payable by the member to the association must be fully paid. Individuals must also be over the age of 18 years. See clause 38.

- (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 meeting is to be dissolved.

34 Presiding member

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

35 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.

36 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 41 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) no person may cast more than one vote, except if they are casting a vote as an nominated affiliate member representative, or as a holder of a proxy for another member not present, and
 - (b) 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:
 - (a) the ballot is to be conducted in accordance with the directions of the chairperson, and
 - (b) the chairperson's declaration of the result must reflect all votes cast, whether in person or representative of by proxy.
- (5) Before a vote is taken on any question the chairperson must:
 - (a) clearly indicate the applicable majority that is required for the resolution to be carried, and
 - (b) inform the meeting whether any person present is acting as a proxy, and if so:
 - (i) the identity of each proxy, and
 - (ii) the identity of the member who appointed each proxy, and
 - (iii) whether the member has directed the manner in which the proxy is to vote, and
 - (iv) the total number of directed proxy votes that have been received (if any), and the manner in which those votes have been directed to be cast.
- (6) If a vote is to be taken by secret ballot, the chairperson must not inform the meeting of any matter that would reveal how a member has directed their vote to be cast.

37 Special resolutions

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

Note. Section 39 of the Act is as follows.

- (1) A resolution is passed by an association as a special resolution:
 - (a) at a meeting of the association of which notice has been given to its members no later than 21 days before the date on which the meeting is held, or
 - (b) in a postal ballot conducted by the association, or
 - (c) in such other manner as the Director-General may direct,if it is supported by at least three-quarters of the votes cast by members of the association who, under the association's constitution, are entitled to vote on the proposed resolution.
- (2) A notice referred to in subsection (1) (a) must include the terms of the resolution and a statement to the effect that the resolution is intended to be passed as a special resolution.
- (3) A postal ballot referred to in subsection (1) (b) may only be conducted in relation to resolutions of a kind that the association's constitution permits to be voted on by means of a postal ballot and, if conducted, must be conducted in accordance with the regulations.
- (4) A direction under subsection (1) (c) may not be given unless the Director-General is satisfied that, in the circumstances, it is impracticable to require votes to be cast in the manner provided by subsection (1) (a) or (b).

38 Voting

- (1) On any question arising at a general meeting of the association a member has one vote only (but this does not prevent a person from exercising the vote of another member in accordance with this constitution).
- (2) A vote may only be cast:
 - (a) by an individual member—if the member is present in person at the meeting, or
 - (b) on behalf of an affiliated member—by a member representative or alternate who has been appointed under clause 8, and who is present in person at the meeting, or
 - (c) on behalf of an individual member or an affiliated member—by a proxy who has been appointed under clause 39 and who is present in person at the meeting, but only while the member who appointed the proxy is absent from the meeting.
- (3) 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 or casting vote.
- (4) 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.
- (5) A member is not entitled to vote at any general meeting of the association if the member is under 18 years of age.

39 Proxy voting

- (1) A member may appoint a proxy to speak and vote on their behalf on any matter at a general meeting (other than an appeal under clause 15).
 - (2) A proxy must be a person who:
 - (a) is an individual member or a member representative, and
 - (b) is entitled to cast a vote at a general meeting.
- Note.* In order to be entitled to cast a vote at a general meeting, all money due and payable by the member to the association must be fully paid. Individuals must also be over the age of 18 years. See clause 38.
- (3) Subject to subclause (8), a proxy appointed by a member has the same rights as the member:
 - (a) to speak at the meeting, and
 - (b) to vote in a written ballot (but only to the extent allowed by the appointment), and
 - (c) to motion for a written ballot under clause 36 (1) (b).
 - (4) A proxy appointed by a member, while the member is present at the meeting, is not entitled to speak or vote on behalf of the member (but this does not prevent the person from voting in their capacity as an individual member or a member representative).
 - (5) An appointment of proxy must be in writing, be signed or authenticated by the member appointing the proxy in any manner specified by the committee, and must clearly identify the following particulars:
 - (a) the member's name and address, and

- (b) the name of the person who is appointed as the member's proxy (or "chairperson" if the chairperson of the meeting is to be appointed as the member's proxy), and
 - (c) the meeting at which the appointment may be used.
- (6) An appointment of proxy may direct how a proxy (a ***directed proxy***) is to vote on any particular matter, or may specify that the proxy (an ***undirected proxy***) may vote as they see fit.
 - (7) An appointment of proxy is valid only if it is received by the secretary at least 24 hours before the commencement of the meeting at which the appointment may be used.
 - (8) No person may act as a proxy for more than one member, excepting that the chairperson may act as a directed proxy for any number of members.

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.

40 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 15).
- (2) A postal or electronic ballot is to be conducted in accordance with Schedule 3 to the Regulation.

41 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 (or by representative in the case of an affiliated member).

Part 5 Miscellaneous

42 Insurance

The association may effect and maintain insurance.

43 Funds - source

- (1) The funds of the association are to be derived from entrance fees and annual subscriptions of members, donations, fund-raising activities, grants, interest and any other sources approved by the committee, 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.

44 Funds - management

- (1) Subject to any resolution passed by the association in general meeting, 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.

45 Association is non-profit

- (1) Subject to the Act and the Regulation, the 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) Subclause (1) does not prevent the association from doing the following things if they are done in good faith:
 - (a) paying a member for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the association, or
 - (b) making a payment to a member for carrying out work in support of the association's objects.

Note. Section 5 of the Act defines pecuniary gain for the purpose of this clause.

46 Association is non-political

The association must not engage in any activity that is undertaken for the purpose of promoting or opposing a political party or a candidate for political office.

Note. This clause does not preclude the association from distributing information or advancing debate about the policies of political parties or candidates for political office (such as by assessing, critiquing, comparing or ranking those policies). Such actions, however, may be subject to electoral or other laws.

47 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 individual 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.

Note. Section 65 of the Act provides for distribution of surplus property on the winding up of an association.

48 Change of name, objects and constitution

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.

49 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 a member of the association (as the committee determines), or
- (b) if the association has no premises, at the association's official address, in the custody of the public officer.

50 Inspection of books etc

- (1) The following documents must be open to inspection, free of charge, by a member of the association at any reasonable hour:
 - (a) records, books and other financial documents of the association,
 - (b) this constitution,
 - (c) minutes of all committee meetings and general meetings of the association.
- (2) A member of the association may obtain a copy of any of the documents referred to in subclause (1) on payment of a fee of not more than \$1 for each page copied.
- (3) Despite subclauses (1) and (2), the committee may refuse to permit a member of the association to inspect or obtain a copy of records of the association that relate to confidential, personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of the association.

51 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 electronically 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 electronically, on the day after it was sent.

51 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.
-