

# AUSTRALIAN CHINESE COMMUNITY ASSOCIATION OF NEW SOUTH WALES LIMITED

## CONSTITUTION

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# AUSTRALIAN CHINESE COMMUNITY ASSOCIATION OF NEW SOUTH WALES LIMITED

## CONSTITUTION

### ***PART I: PRELIMINARY***

#### **1.0 Name**

1.1 The name of the Company is AUSTRALIAN CHINESE COMMUNITY ASSOCIATION OF NEW SOUTH WALES LIMITED.

1.2 The Chinese name of the Company is “澳華公會”.

#### **2.0 Definitions**

2.1 In this Constitution:

- (a) “Act” means the Corporations Act 2001 (Commonwealth) and includes any amendment or re-enactment of it or any legislation passed in substitution for it.
- (b) “Auditor” means the Auditor appointed by the Board or the Company.
- (c) “Board” means the Board of Directors, for the time being, of the Company.
- (d) “Company” means the Australian Chinese Community Association of New South Wales Limited.
- (e) “Constitution” means the Constitution of the Company and includes any amendment of it.
- (f) “Council” has the meaning given by clause 15.1.
- (g) “Director” means a person who is, for the time being, a member of the Board, whether elected or appointed.
- (h) “Good Character” in relation to a Director is defined by the code of conduct to be adopted by the Board.
- (i) “Ordinary Resolution” has the meaning given by clause 32.1. “Registration” in relation to the Company means the transfer of registration of the Company from NSW Fair Trading Department under the Associations Incorporation Act 2009 to the Australian Securities and Investments Commission under the Corporations Act 2001.
- (j) “Replaceable Rules” means the replaceable rules of the Corporations Act 2001 and includes any amendment or re-enactment of it or any legislation passed in substitution for it.
- (k) “Secretary” has the meaning given by clause 21.1.
- (l) “Special Resolution” has the meaning given by clauses 32.2-4.

### **3.0 Interpretations**

#### 3.1 In this Constitution:

- (a) A reference to a function includes a reference to a power, authority, and duty.
- (b) A reference to the exercise of a function includes, if the function is a duty, a reference to the performance of the duty.
- (c) Headings are for convenience only and do not affect interpretation.
- (d) The singular includes the plural and conversely.
- (e) A gender includes all genders.
- (f) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (g) A reference to a person includes a body corporate, an unincorporated body, or other entities.
- (h) A reference to any legislation or to any provision of legislation includes any modification or re-enactment of it, any legislative provisions substituted for it and all regulations and statutory instruments issued under it.
- (i) A reference to conduct includes, without limitation, behaviour as well as any admission, statement or undertaking, whether or not in writing.

### **4.0 Objects**

#### 4.1 The Company is a not-for-profit, non-political, non-religious, and non-sectarian body corporate and the objects of the Company are:

- (a) to provide community services, such as aged care, home care, settlement and social services, to new immigrants, permanent residents and Australian citizens of Chinese descent;
- (b) to represent the diverse interests of those of Chinese descent living in Australia as well as encouraging them to be volunteers;
- (c) to promote understanding between the Chinese Australian community and other Australian communities through multicultural principles.
- (d) to assist and encourage the integration of immigrants of Chinese descent into the Australian society by promoting the acceptance of core Australian values such as democracy, the rule of law, the use of English language and encourage the adoption of Australian citizenship.
- (e) to stimulate interest amongst Australians of Chinese descent in economic, cultural, and political matters;
- (f) to co-operate with other organisations and government bodies in the furtherance of the objects of the Company; and
- (g) To encourage and foster the maintenance of Chinese language, culture and traditions through Chinese language schools and community activities.

## **5.0 Internal Management of the Company**

5.1 The replaceable rules contained in the Act shall not apply to the Company unless no provision in the Constitution covers for the matter concerned and the replaceable rule is consistent with the Constitution.

## **6.0 Nature of the Company**

6.1 The Company is a public company limited by guarantee.

6.2 The liability of the members is limited.

6.3 Every member of the Company undertakes to contribute an amount not exceeding \$10 to the property of the Company if it is wound up while the member is a member or within 1 year after the member ceases to be a member, if required for payment:

- (a) of the debts and liabilities of the Company (contracted before the member ceases to be a member);
- (b) of the costs, charges, and expenses of winding up; and
- (c) for the adjustment of the rights of the contributors among themselves.

6.4 The income and property of the Company, from wherever it is derived, must be applied solely towards the promotion of the objects of the Company set out in clause 4.1.

6.5 No portion of the income or property of the Company may be paid directly or indirectly, by way of dividend, bonus or otherwise to the members of the Company.

6.6 Clause 6.5 does not prevent:

- (a) the payment in good faith of remuneration to any employee or member of the Company in return for any services actually rendered to the Company or for goods supplied in the ordinary course of business;
- (b) the payment of interest at a rate not exceeding the rate charged by the Company's bankers from time to time on overdraft accounts of under \$100,000 plus 2% of money borrowed from any member of the Company;
- (c) the payment of reasonable and proper rent by the Company to a member of the Company for premises leased by that member to the Company; or
- (d) the reimbursement of expenses, properly incurred, by any Director or member on behalf of the Company.

6.7 The Company prohibits:

- (a) paying fees or remuneration to its Directors; and
- (b) making all other payments to Directors without the approval of the Board.

6.8 In a winding up of the Company, any surplus property of the Company is to be distributed in accordance with a Special Resolution of the Company, subject to clause 6.9.

6.9 Any surplus property of the Company shall:

- (a) be transferred to another organisation with similar purposes which is not carried on for the profit or gain of its individual members and non-members; and, if in the case of sub-clause (b) below,
- (b) not be made to or for the benefit of:
  - (i) any member or former member of the Company; or
  - (ii) any person or entity to be held on trust for any member or former member of the Companyunless the member or former member is an organisation (whether incorporated or unincorporated) whose constitution, at the time of the distribution:
  - (iii) states similar purposes as the Company and the organisation is not carried on for the profit or gain of its individual members and non-members; and
  - (iv) prohibits the distribution of property to its members and non-members.

## ***PART II: MEMBERSHIP***

### **7.0 Membership Qualifications**

7.1 Membership shall consist of persons who subscribe to the objects of the Company and who agree to abide by the Constitution, rules and regulations applicable to members of the Company.

7.2 Membership shall be divided into the following categories:

- (a) Ordinary membership shall be open to natural persons of Chinese descent who wish to take part in social activities or services and in the Company's governance (voting);
- (b) Social membership shall be open to all natural persons who wish to take part in social activities or services at a concessional membership fee but do not wish to take part in the Company's governance (non-voting);
- (c) Corporate membership shall be open to any legal entity, corporations, associations, or other entities incorporated or formed in Australia as approved by the Board (non-voting);
- (d) Honorary membership shall be open to natural persons who have rendered exceptional service to the Company or to the Chinese community as may be determined by the Board (voting);

- (e) Life membership shall be open to natural persons of Chinese descent who pay a life membership fee determined from time to time by the Board (voting);
- (f) Honorary Life membership shall be open to natural persons who have rendered exemplary service to the Company or to the Chinese community as may be determined by the Board (voting).
- (g) subject to sub-clause 7.2(a) and sub-clause 9.5, Ordinary and Social members may apply to interchange membership type at the beginning of each membership year by submission of an application and payment of applicable annual membership fee for the member category for the membership year. The change of category has to be approved by the Board and shall come into effect 6 months from the date of application and payment of membership fee.

## **8.0 Application for Membership**

- 8.1 Application for membership shall be made in writing signed by the applicant and in such form and content as the Board shall from time to time determine. Subject to clause 9.0, the application shall be accompanied by an entrance fee and an annual membership fee as determined from time to time by the Board.
- 8.2 Application for membership shall be proposed and seconded by an Ordinary member, Life member, or Honorary member of at least one (1) year standing prior to the date of the application, who has paid all amounts which are liable by these clauses to be paid to the Company in respect of the membership.
- 8.3 As soon as practicable after the receipt of the application the Board shall determine the application. The Board may accept or reject the application, without having to assign any reason whatsoever, and shall notify the applicant accordingly.
- 8.4 Where the application is approved:
  - (a) the Secretary shall ensure the applicant's details are entered in the register of members and on the name of the applicant being so entered, the applicant shall become a member of the Company, and
  - (b) the effective date of the applicant becoming a member is the date of the Board approving the application.
- 8.5 A person who ceased to be a member of the Company by virtue of sub-clause 11.1(d) has to submit a new membership application in order to become a member of the Company.

## **9.0 Membership Fees**

- 9.1 Annual membership fees shall be payable by all members for the period from January to December of each year in an amount and at such time as the Board may from time to time determine, except that no Honorary member or Life member shall be required to pay annual membership fees.

- 9.2 A Life membership fee shall be payable by an applicant for Life membership, as shall be determined by the Board from time to time.
- 9.3 An entrance fee shall be paid by all persons admitted to membership of the Company in an amount as determined by the Board from time to time, except that no Honorary member shall be required to pay an entrance fee.
- 9.4 Member entitlements are subject to the payment of annual membership fee.
- 9.5 Only Life members and Ordinary members without annual membership fee in arrears shall be eligible to vote. In order to be eligible to vote, membership fee renewal must be received at least 2 weeks before the Annual General Meeting of the Company.

## **10.0 Register of Members**

- 10.1 Subject to the Act, the Company must set up and maintain a register of members, which shall be kept at the Registered Office or the principal place of business of the Company.
- 10.2 Subject to sub-clause 11.3(b), the register of members must show the name and current address of each member, and the date on which the entry of the member's name in the register is made.
- 10.3 Subject to clause 10.2 and any applicable laws, if a member requests that any information contained on the register about that member not be made available for inspection, that information must not be made available for inspection.
- 10.4 The Company must allow anyone to inspect the register of members.
- 10.5 A member of the Company may inspect the register of members without charge. Other people may inspect the register only on payment of not more than \$5.00 (the maximum amount prescribed by the Act).
- 10.6 Anyone may obtain a copy of the prescribed information of the register of members on payment of a fee of not more than \$1.25 for each page copied (the maximum amount prescribed by the Act).
- 10.7 A member must not use information about another member obtained from the register to contact or send material to that other member, other than for:
- (a) the purposes of sending that other member a newsletter, a notice in respect of a meeting or other event relating to the Company or other material relating to the Company; or
  - (b) any other purpose necessary to comply with a requirement of the Act.
- 10.8 For the purpose of sub-clause 10.7(a), membership information should not be used for sending newsletters or sending notice of meetings except with the approval of the Secretary or the Board.

## **11.0 Cessation of Membership**



- 11.1 A person ceases to be a member of the Company if the person:
- (a) dies;
  - (b) being a corporate member, is wound up or is otherwise dissolved or deregistered;
  - (c) resigns membership;
  - (d) is or has been convicted of an offence resulting in a sentence of imprisonment of three (3) months or more;
  - (e) has failed to renew their membership for twelve (12) months since their annual membership fee fell due; or
  - (f) is expelled by the Company under clause 12.
- 11.2 A right, privilege, or obligation which a person has by reason of being a member of the Company:
- (a) is not capable of being transferred or transmitted to another person; and
  - (b) terminates on cessation of the person's membership.
- 11.3 A member of the Company is not entitled to resign his, her or its membership except in accordance with this rule:
- (a) member of the Company may resign from membership of the Company by giving to the Secretary written notice of at least seven (7) days of the member's intention to resign, and on the expiration of the period of notice, the member ceases to be a member;
  - (b) if a member of the Company ceases to be a member under sub-clause (a), 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 and keep the entry for 7 years.

## **12.0 Disciplining of Members**

- 12.1 If any member:
- (a) wilfully refuses or neglects to comply with the provisions of this constitution, or
  - (b) in the opinion of the Board, engages in conduct which is unbecoming of a member or may be prejudicial to the interests of the Company,
- the Board may resolve to expel the member from the Company and remove the member's name from the register.
- 12.2 At least two weeks before the meeting of the Board at which a resolution under 12.1 is considered, the Board must give to the member notice of:
- (a) the meeting;
  - (b) what is alleged against the member; and
  - (c) the intended resolution.

- 12.3 The member must have an opportunity to speak or present a written statement at the meeting prior to the consideration of the resolution, to give any explanation or defence the member sees fit.
- 12.4 The Board may resolve to refer a motion to reinstate any member who ceases to be a member under 12.1, and restore the name of that member to the register, at a general meeting of members by Special Resolution.
- 12.5 A member who has been expelled shall not be permitted to be reinstated within five (5) years.

### **13.0 Right of Appeal of Disciplined Member**

#### **Appeals Committee Constitution and Powers**

- 13.1 Notwithstanding clause 19.0, the Board shall appoint an Appeals Committee for the purpose of this section.
- 13.2 The Appeals Committee shall consist of three Directors of the Board (which includes the President) and three other persons (who are not Directors), whether or not they are members of the Company, to be appointed by the Board.
- 13.3 The decision of the Appeals Committee shall be determined by a majority vote. In the case of the equality of votes, the President shall have a casting vote.
- 13.4 Disputes between members (in their capacity as members) of the Company, other than a matter referred to clause 12, are to be referred to a Community Justice Centre for mediation in accordance with the *Community Justice Centres Act 1983* (NSW), provided each party to the mediation pays his or her own costs.

#### **Appeal against Disciplinary Actions**

- 13.5 Appeals against a resolution for suspension or expulsion, may be made to the Appeals Committee, chaired by the President of the Company, within 7 days after notice of the resolution is served on the member, by lodging with the Secretary a notice to that effect.
- 13.6 On receipt of a notice from a member under clause 13.5, the Secretary must notify the Appeals Committee, which is to convene a meeting to be held within 28 days after the date on which the Secretary received the notice.
- 13.7 At the meeting of the Appeals Committee convened pursuant to a notice under clause 13.6:
  - (a) the member concerned must be given the opportunity to state his or her case either orally or in writing, or both;
  - (b) if a majority of the Appeals Committee confirm the Board resolution to suspend or expel the member concerned, the suspension or expulsion of the member concerned shall take effect immediately.
- 13.8 When the Appeals Committee confirms the resolution of the Board to suspend or expel the member concerned, the Board shall within seven (7) days of the Appeals

Committee's meeting notify the member concerned, and the member concerned shall be deemed to have been suspended for the period or expelled from the date of the Appeals Committee's meeting.

### ***PART III: PATRONS***

#### **14.0 Appointment of Patrons**

- 14.1 The Board may appoint any person or persons resident in New South Wales, of distinguished position or attainment as Patron or Patrons to the Company for a tenure to be determined by the Board.
- 14.2 Whenever the Patron appointed is a Vice-Regal representative, any other patronage appointment shall carry the title of Vice-Patron and rank below that of the Patron.
- 14.3 The term of office of the Vice-Regal Patronage ceases when the Governor of NSW ceases to hold the Office of the Governor of NSW.

### ***PART IV: COUNCIL***

#### **15.0 Council**

- 15.1 The Council is an advisory body and except as provided in the Constitution, it has no power in respect of the management and administration of the Company.
- 15.2 The Council shall consist of a maximum of five (5) Councillors elected at an Annual General Meeting.
- 15.3 Only Ordinary and Life members of three (3) years' standing who are citizens of Australia and who have paid all amounts which the member is liable by the Constitution to pay to the Company in respect of his or her membership and Honorary members of three (3) years' standing who are citizens of Australia shall have the right to stand for election to the Council.
- 15.4 The term of office for an elected Councillor is four (4) years. Should a vacancy in the Council arise due to resignation or death the casual vacancy may be filled by appointment in a joint sitting of the Board and the Council, chaired by the President of the Company. The term of office for the Councillor so appointed will be the remaining term of the vacated Council member.
- 15.5 A person shall not during the term as an elected Councillor concurrently hold any salaried position within the Company or receive fees, remuneration, or any other benefits in money or money's worth from the Company except that:
  - (a) a Councillor may obtain reimbursement of out-of-pocket expenses properly incurred in carrying out the functions of a Councillor of the Company;

- (b) where a Councillor loans money to the Company, the Councillor may receive payments of interest at a rate not exceeding the overdraft rate then chargeable by a major commercial bank with which the Company holds an account; or
  - (c) where a Councillor leases premises to the Company, the Councillor may receive a reasonable rental from the Company.
- 15.6 A Councillor shall not stand for election as, or be a Director or office holder of the Board during his or her term as Councillor.
- 15.7 The Company in General Meeting may by an Ordinary Resolution remove any Councillor before the expiration of the Councillor's term of office and may by resolution appoint another eligible member to hold office until the expiration of the term of office of the Councillor so removed.
- 15.8 A Councillor to whom a proposed resolution referred to in clause 15.7 relates, may make oral representation at the General Meeting or may distribute, at his or her own cost, written representations to members at the General Meeting.
- 15.9 A member of the Council shall be deemed to have vacated his or her position as a member of the Council in the following circumstances:
  - (a) if the member dies;
  - (b) if the member becomes a bankrupt or makes arrangement or composition with his or her creditors generally;
  - (c) if the member becomes mentally ill or otherwise incapacitated;
  - (d) if the member ceases to be a member of the Company;
  - (e) if the member holds any office of profit under the Company;
  - (f) if the member has a direct or indirect interest in any contract or proposed contract with the Company without declaring such interest to the Council; or
  - (g) if the member resigns from office by notice in writing to the Company.

## ***PART V: MANAGEMENT***

### **16.0 The Board of Directors**

- 16.1 The management of the Company shall be vested in the Board, which subject to the Constitution and to any resolution passed by the Company in General Meeting:
  - (a) may do all things necessary or incidental to the furtherance of the objects of the Company;
  - (b) shall control and manage the affairs of the Company;
  - (c) may exercise all such functions as may be exercised by the Company other than those that are required by the Constitution to be exercised by the Company in a General Meeting; and

- (d) has power to do all such things as appear to the Company to be necessary or desirable for the proper management of the affairs of the Company.

16.2 The Board shall ensure the Company's financial affairs are managed in a responsible manner.

16.3 The Board shall not allow the Company to operate while insolvent.

16.4 The Board shall have the power to elect the Office Bearers of the Company among its Directors, as the circumstances require and as the Board sees fit.

## 17.0 Election to the Board and Terms of Directorship

17.1 The Board shall be elected during a half-Board election at an Annual General Meeting.

17.2 Subject to the transitional clause of 17.3:

- (a) The Board shall consist of ten (10) Directors who shall each be entitled to serve a four (4) year term before being subject to retirement or re-election; and
- (b) A Director shall be eligible for re-election; and
- (c) The Directors shall be elected every two years during a half-Board election and shall be elected in the following manner:
  - (i) five (5) directorships shall be vacated and open for election at a half-Board election, and
  - (ii) the next five (5) directorships shall be vacated at the subsequent half-Board election, so that
  - (iii) half of the Board's Director's terms shall expire at each following half-Board election.

17.3 This is a transitional provision and applies only to the half-Board elections scheduled for those dates as outlined in the following table. The Board of Directors shall be elected as follows on the dates listed below:

<b>Order and business of transitional half-Board elections</b>	
<b>Date</b>	<b>Number of Directors to be elected or re-elected</b>
2017 AGM	<ul style="list-style-type: none"> <li>• 8 Directors whose terms expire, shall retire; and</li> <li>• 5 directorships shall be opened for election.</li> <li>• Board shall consist of 13 Directors after this election.</li> </ul>
2018 AGM	<ul style="list-style-type: none"> <li>• There will be no half Board election this year, however 3 Directors who were elected in 2016 AGM shall retire prior to the 2018 AGM.</li> <li>• The Board of Directors shall determine among themselves who shall be the three retiring Directors and the timing of their retirement.</li> </ul>
2019 AGM	<ul style="list-style-type: none"> <li>• 5 of the remaining directors elected in 2016 shall retire.</li> <li>• 5 directorships shall be opened for election.</li> <li>• The Board shall consist of 10 Directors after this election.</li> <li>• Clause 17.3 shall cease to have any effect after this election.</li> </ul>

- 17.4 Any casual vacancy occurring amongst the Board may be filled by an appointment by the Board and the Director so appointed to fill such vacancy shall hold office for the unexpired term of the Director so replaced.
- 17.5 A Director who is appointed shall be treated in the same manner and shall have the same rights, entitlements, responsibilities, duties as if that Director were elected.
- 17.6 All references in this Constitution to an elected Director shall be read to include an appointed Director.

## **18.0 The Directors**

- 18.1 A Director must be of good character, be a fit and proper person and be an Australian citizen resident in Australia.
- 18.2 Nomination for election as a Director shall include a brief resume of the person including his or her qualifications and relevant experience in Australia or overseas.
- 18.3 A Director shall not stand for election as, or be a Councillor during his or her term as a Director.
- 18.4 A person shall not during his or her term as a Director concurrently hold any salaried position within the Company or receive fees, remuneration, or any other benefits in money or money's worth from the Company except that:
- (a) a Director may obtain reimbursement of out-of-pocket expenses properly incurred in carrying out the functions of a Director of the Company;
  - (b) where a Director loans money to the Company, the Director may receive payments of interest at a rate not exceeding the overdraft rate then chargeable by a major commercial bank with which the Company holds an account; or
  - (c) where a Director leases premises to the Company, the Director may receive a reasonable rental from the Company.
- 18.5 Subject to the Act, a Director who has a material personal interest in a matter that relates to the affairs of the Company must give the other Directors notice of the interest.
- 18.6 Subject to the Act, a Director who has a material personal interest in a matter that is being considered at a Board meeting must not:
- (a) be present while the matter is being considered at the meeting; or
  - (b) vote on the matter
- unless the other Directors have passed a resolution that:
- (c) identifies the Director, the nature and extent of the Director's interest in the matter and its relation to the affairs of the Company; and

(d) states that those Directors are satisfied that the interest should not disqualify the Director from voting or being present.

18.7 A Director shall not use information obtained as a Director with the intention of gaining an advantage for himself or herself, or for any other person, or causing detriment to the Company.

18.8 A Director shall not use his or her position as a Director with the intention of gaining an advantage for himself or herself, or for any other person, or causing detriment to the Company.

18.9 A Director shall accept the responsibilities as a Director of a Company, as provided by the Act, as well as a code of conduct that may be adopted by the Board.

## **19.0 Sub-committees**

19.1 The Board may, by resolution, delegate to one or more sub-committees, consisting of such member or members of the Company as the Board thinks fit the exercise of such of the functions of the Board as are specified in the resolution, other than:

- (a) the power of delegation; or
- (b) a function which is a duty imposed on the Board by the Act, the Constitution, or by any other law.

19.2 The function, the exercise of which has been delegated to a sub-committee under the Constitution, may, while the delegation remains unrevoked, be exercised from time to time by the sub-committee in accordance with the terms of the delegation.

19.3 The delegation under the Constitution may be made subject to such conditions or limitations as to the exercise of any function, or as to time or circumstances, as may be specified in the resolution of the Board.

19.4 Despite any delegation under this clause, the Board may continue to exercise any function delegated to a sub-committee.

19.5 The Board may, by resolution, revoke wholly or in part any delegation under this clause.

19.6 A sub-committee may meet and adjourn as it thinks proper.

19.7 Sub-committee members shall serve until the conclusion of the next Annual General Meeting following their appointment unless the sub-committee member resigns or is removed by resolution of the Board.

19.8 Sub-committees shall be accountable to the Board and shall regularly report on their activities to the Board.

## **20.0 Office Bearers**

20.1 The Office Bearers of the Company shall be:

- (a) the President;
- (b) the Treasurer;
- (c) the Secretary; and
- (d) three (3) Vice Presidents.

20.2 The Directors elected to the Board shall elect amongst themselves the positions of:

- (a) Assistant Treasurer; and
- (b) Assistant Secretary.

20.3 No person shall hold the office of President for more than two (2) consecutive terms of two (2) years each.

20.4 Nominations for the position of President will only be accepted if the persons nominated have served on the Board for at least one (1) year immediately prior to the date of the nomination, or have served on the Board for a total of at least five (5) years.

20.5 In case there is no Director who is eligible for nomination as President, the Directors shall elect among themselves the President.

20.6 The President shall appoint a Director to be the Acting President whenever the President is temporarily absent from office.

20.7 Where, during the President's temporary absence from office, no Acting President has been appointed by the President, the Board shall appoint a Director among them to be Acting President.

## **21.0 Secretary**

21.1 The Secretary, elected under clause 17.1, shall perform all the functions and duties required by the Act to perform as the Secretary of the Company.

21.2 The Secretary is entitled to attend and be heard on any matter at all Board meetings and General Meetings.

21.3 The Secretary is one of the Company's officers who, under section 127 of the Act, can sign documents so that the Company can be taken to have executed the document.

21.4 The Secretary is responsible for:

- (a) record-keeping within the Company such as maintaining the registers required by the Act;
- (b) preparing and keeping of minutes of meeting of Directors and members;
- (c) sending out the notices of Directors' meetings and Meetings of members;



- (d) ensuring that the Company meets its obligation in relation to its Registered Office; and
- (e) providing the required information about the Company's officers to the relevant government authority.

## **22.0 Treasurer**

22.1 It is the duty of the treasurer of the Company to ensure:

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

## **23.0 Vacation of Office**

23.1 A Director shall be deemed to have vacated his or her position as a Director of the Board in the following circumstances:

- (a) upon the expiration of the term of office at the next Annual General Meeting following his or her election or appointment;
- (b) upon the death of the Director;
- (c) if the Director becomes a bankrupt or make arrangement or composition with his or her creditors generally;
- (d) if the Director becomes mentally ill or otherwise incapacitated;
- (e) if the Director becomes disqualified by the Australian Charities and Not-for-profits Commissioner;
- (f) if the Director engages in conduct or omits to engage in conduct when the conduct or omission may be dealt with by way of a civil penalty of 60 penalty units or more;
- (g) if the Director wilfully refuses or neglects to comply with the provisions of the Constitution or the laws;
- (h) if the Director is absent from meetings of the Board for more than three (3) consecutive months without leave of the Board, except by a resolution of the Board to the contrary;
- (i) if the Director ceases to be a member of the Company;
- (j) if the Director holds any office of profit under the Company;
- (k) if the Director has a direct or indirect interest in any contract or proposed contract with the Company without declaring such interest to the Board; or
- (l) if the Director resigns from office by notice in writing to the Company.

23.2 The Company in General Meeting may by an Ordinary Resolution remove any Director of the Board before the expiration of the Director's term of office and

may by resolution appoint another eligible Director to hold office until the expiration of the term of office of the Director so removed.

- 23.3 A Director of the Board to whom a proposed resolution referred to in clause 23.2 relates, may make oral representations at the General Meeting or may distribute, at his or her own cost, written representations to members at the General Meeting.
- 23.4 If the offices of all the Directors of the Board shall become vacant other than by reason of the ordinary vacation at the expiration of the term of office at each Annual General Meeting, the Council shall immediately appoint the immediate past President, the immediate past Secretary or one of the immediate past Vice-Presidents to be the Administrator of the Company.
- 23.5 The Administrator shall call a General Meeting within two months of its appointment to elect a new Board and in the interim period, be responsible to the Company's Council.

#### **24.0 Proceedings of the Board**

- 24.1 The Board shall meet at least once in each calendar month on seven (7) days' written notice to dispatch the business of the Company.
- 24.2 The Board may hold a meeting immediately after the election in clause 17.1.
- 24.3 At the request of any four (4) Directors of the Board, the President and the Secretary shall call on seven (7) days' written notice a meeting of the Board, within four (4) days of receipt of the request.
- 24.4 In the event of urgent business, a Board meeting shall be called on twenty-four (24) hours' written notice, if written consent is obtained from at least four (4) of the following persons:
- (a) the President;
  - (b) the Treasurer;
  - (c) the Secretary; or
  - (d) the three (3) Vice-Presidents.
- 24.5 Notice of the meeting given under clause 24.1 shall specify the general nature of the business to be transacted at the meeting.
- 24.6 Notice of the meeting given under clauses 24.3 and 24.4 shall specify:
- (a) the nature of the business to be transacted at the meeting;
  - (b) any resolution proposed to be passed at the meeting; and
- only business of which notice has been given under clause 24.3 or 24.4 may be transacted at the meeting.
- 24.7 Matters arising at any Board Meeting shall be decided by a majority of those present which shall for all purposes be a determination of the Board. In case of an equality of votes, the Chairman of the meeting shall have a casting vote.

24.8 The quorum of a meeting of the Board shall consist of seven (7) Directors of the Board of which two (2) are Office Bearers and any meeting where such a quorum is not present shall be adjourned to the same place and at the same hour of the same day in the following week.

24.9 At a meeting of the Board:

- (a) the President, or in the President's absence, a Vice President shall be the Chairperson; or
- (b) if the President and the Vice Presidents are absent or are unwilling to act as Chairperson, such one of the remaining Directors of the Board as may be chosen by the other Directors of the Board present at the meeting shall be the Chairperson.

24.10 Any act or thing done or suffered, or purporting to be done or suffered by a Director is valid and effective despite any defect that may afterwards be discovered in the appointment or qualification of any Director of the Board.

## ***PART VI: GENERAL MEETINGS***

### **25.0 Annual General Meetings**

25.1 The Company shall hold an Annual General Meeting at least once in each calendar year and within 5 months after the end of its financial year.

25.2 An Annual General Meeting shall be held in accordance with the provisions of the Act and the Constitution.

25.3 All meetings other than the Annual General Meetings shall be called General Meetings.

### **26.0 Calling of General Meetings and the Business of Annual General Meetings**

26.1 Four (4) Directors may, at any time, call a General Meeting of the members of the Company.

26.2 The Board must call Annual General Meetings in accordance with the Act, to be held by the Company at times to be determined by the Board.

26.3 Members may also request or call and arrange to hold General Meetings in accordance with clause 34.2 and sub-clause 34.3(e).

26.4 A General Meeting may be held at two or more venues simultaneously using technology that gives the members as a whole a reasonable opportunity to participate.

26.5 The business of an Annual General Meeting may include:

- (a) any of the following matters, even it is not referred to in the notice of Meeting:

- (i) to confirm the minutes of the last preceding Annual General Meeting and of any General Meeting held since that Meeting;
  - (ii) to receive from the Board reports on the activities of the Company during the last preceding financial year;
  - (iii) to elect the Directors of the Company;
  - (iv) to consider the Annual Financial Report, the Directors' Report and the Auditor's Report; and
  - (v) to appoint the Auditor;
- (b) any business which under the Constitution or the Act is required to be transacted at an Annual General Meeting; and
- (c) any other business which may lawfully be transacted at a General Meeting.

## **27.0 Notice of General Meetings**

27.1 Subject to clauses 27.2, at least 21 days' notice must be given of a General Meeting.

27.2 A Company may call on shorter notice:

- (a) an Annual General Meeting, if all the members entitled to attend and vote at the Annual General Meeting agree beforehand;
- (b) any other General Meeting, if members with at least 95% of the votes that may be cast at the Meeting agree beforehand.

27.3 A shorter notice is not allowed if a resolution:

- (a) to remove a Director or appoint a Director in place of the Director removed; or
- (b) to remove the Auditor

will be moved in a General Meeting.

27.4 Subject to the requirements of the Act, a notice calling a General Meeting must:

- (a) specify the place, date and time of the Meeting (and if the Meeting is to be held in two or more places, the technology that will be used to facilitate this);
- (b) state the general nature of the business to be transacted at the Meeting;
- (c) if a Special Resolution is to be proposed at the Meeting, set out an intention to propose the Special Resolution and state the resolution; and
- (d) comply with any other requirements of the Act.

## **28.0 Quorum for General Meetings**

28.1 No business may be transacted at a General Meeting unless a quorum of members is present at the commencement of business.

- 28.2 A quorum of members is one hundred (100) members, present in person or by proxy.
- 28.3 If a quorum is not present within 30 minutes after the time appointed for a General Meeting:
- (a) the General Meeting is automatically dissolved if it was requested or called by members under clause 34.2 and sub-clause 34.3(e); or
  - (b) in any other case:
    - (i) it will stand adjourned to the same time and place seven days after the meeting, or to another day (within 14 days), time and place determined by the Board; and
    - (ii) if at the adjourned General Meeting a quorum is not present within 30 minutes after the time appointed for the General Meeting, not less than fifty (50) members present in person or by proxy shall be deemed to form a quorum.

## **29.0 Chair of General Meetings**

29.1 The President, or in the President's absence a Vice-President, will be the chair at every General Meeting.

29.2 If:

- (a) there is no President or Vice-President;
- (b) neither the President nor a Vice-President is present within 15 minutes after the time appointed for holding the General Meeting; or
- (c) the President and Vice-President are unwilling to act as chair of the General Meeting,

the Directors present may elect a chair of the General Meeting.

29.3 If no chair is elected in accordance with clause 29.2, then:

- (a) the members may elect one of the Directors present as chair; or
- (b) if no Director is present or is willing to take the chair, the members may elect one of the members present as chair.

29.4 At any time during a Meeting and in a respect of any specific item or items of business, the chair may elect to vacate the chair in favour of another person nominated by the chair (which person must be a Director unless no Director is present or is willing to act). That person is to be taken to the chair and will have all the powers of the chair (other than the power to adjourn the Meeting), during the consideration of that item of business or those items of business.

29.5 If there is a dispute at a General Meeting about a question of procedure, the chair may determine the question, which determination, subject to law, is final.

## **30.0 Adjournment**

30.1 The chair of a General Meeting at which a quorum is present:

- (a) in his or her discretion may adjourn the General Meeting; and
  - (b) must adjourn the General Meeting if the Meeting directs him or her to do so.
- 30.2 An adjourned General Meeting may take place at a different venue to the initial General Meeting.
- 30.3 The only business that can be transacted at an adjourned General Meeting is the unfinished business of the initial General Meeting.
- 30.4 Notice of an adjourned General Meeting must only be given in accordance with clause 27.0 if a General Meeting has been adjourned for 30 days or more.

### **31.0 Making of Decisions**

- 31.1 In accordance with the Act, a resolution is carried if a majority of the votes cast on the resolution are in favour of the resolution.
- 31.2 A resolution put to the vote of a meeting is decided on a show of hands unless a poll is demanded in accordance with the Act.
- 31.3 A poll may be demanded by the chair of the Meeting, at least five members entitled to vote on the resolution, or members with at least 5% of the votes that may be cast on the resolution. The demand may be made before a vote is taken, before or immediately after the results of the show of hands vote are declared.
- 31.4 Unless a poll is demand:
  - (a) a declaration by the chair that a resolution has been carried, carried by a specified majority, or lost; and
  - (b) an entry to that effect in the minutes of the Meeting,are conclusive evidence of the fact without proof of the number or proportion of the number or proportion of the votes in favour of or against the resolution.
- 31.5 The demand for a poll may be withdrawn.
- 31.6 A decision of a General Meeting may not be invalidated on the ground that a person voting at the General Meeting was not entitled to do so.
- 31.7 Entitlement to vote:
  - (a)
    - (i) an Ordinary member of at least (6) months' standing as a member of the Company who is a citizen or a permanent resident of Australia; or
    - (ii) a Life member of at least (6) months' standing as a member of the Company who is a citizen or a permanent resident of Australia; and
    - (iii) who is present in person or by proxy at the General Meeting.
  - (b) Each member entitled to vote at a General Meeting has the right to appoint one proxy only.

- (c) Each member present in a General Meeting shall hold only one proxy on behalf of another member of the Company.

### **32.0 Ordinary Resolution and Special Resolution**

- 32.1 An Ordinary Resolution, in relation to the Company, is a resolution which must be passed by a majority of the votes cast by the members of the Company entitled to vote on the resolution at the meeting in person or by proxy. To clarify, only the votes of the members present in the General Meeting in person or by proxy are counted.
- 32.2 A Special Resolution, in relation to the Company, is a resolution:
  - (a) of which notice has been given; and
  - (b) that has been passed by at least 75% of the votes cast by members entitled to vote on the resolution.
- 32.3 The notice in sub-clause 32.2(a) must set out an intention to propose the Special Resolution and state the resolution.
- 32.4 In sub-clause 32.2(b), only the votes of the members present in the General Meeting in person or by proxy are counted.

### **33.0 Nominations**

- 33.1 Nominations for candidates for election of Directors of the Board, or Councillors:
  - (a) shall be made in writing, dated and signed by a proposer and seconder for the nomination and accompanied by the written consent of the candidate, which may be endorsed on the form of the nomination; and
  - (b) shall be delivered to the Secretary of the Company at least fourteen (14) days before the date fixed for the holding of the Annual General Meeting or the General Meeting at which the election is to take place.
- 33.2 If insufficient nominations are received to fill all vacancies on the Board or Council, any vacant positions remaining on the Board or Council, as the case may be, are taken to be casual vacancies.
- 33.3 If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.
- 33.4 If the number of nominations exceeds the number of vacancies to be filled, a ballot is to be held.
- 33.5 The ballot for the election of the Directors of the Board or the Councillors is to be conducted at the Annual General Meeting or the General Meeting in such usual and proper manner as the Board may direct.
- 33.6 Candidates for election to the Directors and their respective proposers and seconders must have been an Ordinary member, Life member, or Honorary member of the Company for at least one (1) year prior to the date of the

nomination, who have paid all amounts which they as members are liable by the Constitution to pay to the Company in respect of their membership.

- 33.7 A nomination for election to the Council must be proposed and seconded by an Ordinary member, Life member, or Honorary member of the Company for at least five (5) years' standing prior to the date of nomination, who have paid all amounts which they as members are liable by the Constitution to pay to the Company in respect of their membership.

#### **34.0 General Meetings and Class Meetings**

- 34.1 In accordance with Section 249Q of the Act, any person seeks to exercise their power to convene a Meeting, that Meeting must be for proper purpose.
- 34.2 Meetings convened by members: A member or members holding at least 5% of the votes entitled to be cast at the Meeting may convene a Meeting under s 249F of the Act. If the members convene the Meeting themselves under s 249F, they must pay the expenses of calling and holding the Meeting.
- 34.3 Meetings convened by the Board:
- (a) The Board of Directors may convene General Meetings and Class Meetings when those Meetings are necessary for the administration of the Company's affairs.
  - (b) The Board must convene a Meeting of members when requested to do so by at least 5% of the votes that may be cast at the Meeting or at least 200 members entitled to vote at the Meeting, whichever is numerically larger, and the request must:
    - (i) be in writing;
    - (ii) state any resolution to be proposed at the Meeting;
    - (iii) attach a schedule that contains the names, addresses, membership numbers and signatures of the members making the request; and
    - (iv) be given to the Company.
  - (c) The Meeting must be called within 21 days, and held within two months, after the request is given to the Company.
  - (d) The Directors can refuse to act on the request of the Meeting where the sole purpose of the Meeting is an improper one (for example, the purpose of the Meeting is to vote on some matter which is solely within the authority of the Directors).
  - (e) If the Directors do not convene a General Meeting under sub-clause 34.3(b) within 21 days after the request is given to the Company, a member or members with more than 50% of the votes of all of the member who make the request may call and arrange to hold a General Meeting.



## ***PART VII: FINANCES***

### **35.0 Financial Year**

35.1 Subject to the Act, the financial year of the Company shall commence on the first day of July each year and conclude on the last day of June of the subsequent year.

### **36.0 Funds – Source and Application**

36.1 The Company may raise or seek to raise funds from any source and to apply any funds of the Company in the furtherance of the objects of the Company as determined by the Board.

### **37.0 Funds – Management**

37.1 The Company shall establish and maintain a bank account or bank accounts with a major commercial bank or a number of major commercial banks in Sydney as determined by the Board from time to time.

37.2 The President, the Secretary, the Treasurer, and two other Directors nominated by the Board shall be the authorised persons to sign all cheques and to make payments on behalf of the Company. All cheques shall be signed by the Treasurer, or in his/her absence, the Secretary and countersigned by the President, or in his/her absence, one of the nominated Directors.

37.3 All monies received by the Company shall be deposited at the Company's bank account or bank accounts promptly and receipts shall be issued for all monies received.

37.4 Subject to clause 37.5, all accounts exceeding \$5,000 shall be presented to and approved for payment at a Board meeting and full details of such approvals shall be entered in the minutes book of the Company.

37.5 The Board may delegate to the Chief Executive Officer and/or any other person the power to authorise payment of certain categories. The details of the designated senior executive shall then be provided to the relevant financial institution so that he or she is recognised as the account signatory. The categories of authorised payments shall be specified in the policies and procedures of the Company.

37.6 It is the duty of the Treasurer of the Company to ensure:

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

### **38.0 Audit**

- 38.1 If the Company is not required by the Act to have the Financial Statements audited in a particular financial year, subject to the Act and clause 38.2, the Board shall determine whether the Financial Statements in that particular financial year have to be audited or reviewed.
- 38.2 If the Company is not required by the Act to have the Financial Statements audited in a particular financial year, members of the Company with at least 5% of the votes of the Company may give the Company a direction to:
- (a) prepare a Financial Report and a Directors' Report for that financial year; and
  - (b) send them to members who have elected to receive them under s316A of the Act,
- and the direction must be:
- (c) signed by the members giving the direction; and
  - (d) made no later than 12 months after the end of the financial year concerned.
- 38.3 The members' direction given in clause 38.2 may specify all or any of the following:
- (a) that the Financial Report does not have to comply with some or all of the Australian Accounting Standards;
  - (b) that the Director's Report or part of that Report need not be prepared;
  - (c) that the Financial Report is to be audited or reviewed.
- 38.4 Subject to the Act, the Auditor shall be elected at the first General Meeting and hold office until resignation, removal, or death.
- 38.5 The Auditor may by notice in writing to the Company resign as Auditor of the Company.
- 38.6 The Auditor may be removed from office by an Ordinary Resolution of the Company passed at a General Meeting.
- 38.7 Notice of intention to move the resolution to remove the Auditor must be given to the Company at least 2 months before the Meeting is to be held. However, if the Company calls a Meeting after the notice of intention is given, the Meeting may pass the resolution even though the Meeting is held less than 2 months after the notice of intention is given.
- 38.8 Upon receipt of a notice of the proposal to remove the Auditor, the Secretary shall send a copy of the said notice to the Auditor as soon as possible.
- 38.9 If within 7 days after the Auditor received a copy of the notice, the Auditor:
- (a) makes representations in writing, not exceeding a reasonable length to the Company; and
  - (b) requests that, before the Meeting at which the resolution is to be considered, a copy of the representations shall be sent by the Company

at its expenses to every member of the Company to whom notice of the meeting is sent,

subject to the Act, the Company must send a copy of the representation in accordance with the Auditor's request, and allow the representation to be read out at the Meeting, if so requested by the Auditor.

38.10 Where the vacancy in the office of Auditor occurs:

- (a) the Board shall by resolution appoint a person or firm of auditors to fill the vacancy until the next General Meeting following the date the office of Auditor becomes vacant; and
- (b) the Company shall at the next General Meeting following the date the office of Auditor becomes vacant appoint a person or firm of auditors to fill the vacancy.

## ***PART VIII: MISCELLANEOUS***

### **39.0 Sale, Purchase, or Dealings with Real Property**

39.1 The Company shall not:

- (a) sell, encumber, mortgage, or charge real property in which the Company has an interest; or
- (b) purchase or acquire an interest in real property;

otherwise than in accordance with the Constitution.

39.2 Where the Board resolves to sell, encumber, mortgage, or charge an interest in real property:

- (a) by 75% of all the Directors of the Board; and
- (b) 75% of all Councillors have approved the resolution;

then prior to entering such sale, encumbrance, mortgage, or charge the Board shall call a General Meeting at which the members entitled to vote may by an Ordinary Resolution ratify the resolution; provided that in the absence of:

- (c) 75% of all the Directors of the Board; or
- (d) 75% of all Councillors;

then a Special Resolution of the members entitled to vote at the General Meeting shall be required to ratify the resolution.

39.3 Where the Board resolves to purchase or acquire an interest in real property:

- (a) by 75% of all the Directors of the Board; and
- (b) 75% of all Councillors have approved the resolution;

then the Board is authorised to execute such documents or do such things as necessary to purchase or acquire an interest in real property; provided that in the absence of:

- (c) 75% of all the Directors of the Board; or
- (d) 75% of all Councillors;

then prior to entering into such purchase or acquisition the Board shall call a General Meeting at which the members entitled to vote may by a Special Resolution ratify the resolution.

#### **40.0 Amendment of Constitution**

40.1 The Constitution may be altered, rescinded or added to only by a Special Resolution of the Company.

40.2 Where the Constitution is proposed to be altered rescinded or added to, then the Board shall convene a consultative joint meeting with the Council prior to calling a General Meeting to consider the proposed alteration, rescission, or addition to the Constitution.

#### **41.0 Voluntary Dissolution**

41.1 Where the Board resolves that the Company be voluntarily dissolved:

- (a) by 75% of all the Directors of the Board; and
- (b) 75% of all Councillors have approved the resolution;

then the Board shall call a General Meeting at which the members entitled to vote may by an Ordinary Resolution ratify the resolution; provided that in the absence of:

- (c) 75% of all Directors; or
- (d) 75% of all Councillors;

then a Special Resolution of the members entitled to vote at the General Meeting shall be required to ratify the resolution.

41.2 Upon a resolution being passed at a General Meeting to voluntarily dissolve the Company, all assets and funds of the Company shall be dealt with pursuant to clauses 6.8 and 6.9, and the Act.

#### **42.0 Minutes**

42.1 The Secretary shall cause minutes to be kept of:

- (a) appointments of the Office Bearers and the Directors of the Board;
- (b) the names of the Directors present at all meetings of the Company and of the Board; and
- (c) the proceedings at all meetings of the Company and of the Board.

42.2 Subject to the Act, the minutes of meetings of the Company and of the Board shall be confirmed at the next succeeding meeting and signed by the Chairperson who certifies them to be a true record of that meeting.

### **43.0 Custody of Books and Records**

- 43.1 The Secretary shall keep and maintain records of the business of the Company including the Constitution, register of members, books of minutes of all General Meetings and Board meetings, and a file of correspondence, at the Registered Office or the principal place of business of the Company.
- 43.2 The Treasurer shall keep and maintain all financial books and records of the Company, at the Registered Office or the principal place of business of the Company.

### **44.0 Insurance**

- 44.1 The Company shall maintain insurance to protect all Directors against any personal claims arising when any Director exercises his/her duty for the Company as in accordance with the Act.
- 44.2 The Board shall effect and maintain insurance as is required under the Act together with any such other insurance which may be required by law or determined as necessary by the Board.

### **45.0 Service of Notice**

- 45.1 Service of documents on the Company is effected by leaving it at or posting to the Company's Registered Office by registered mail.
- 45.2 A notice may be served by or on behalf of the Company upon any member and shall be deemed to be duly given or made:
- (a) in the case of delivery in person – when delivered to the recipient;
  - (b) in the case of post – if posted to an Australian address, four (4) business days after posting, and in any other case 8 business days after posting by airmail;
  - (c) in the case of facsimile transmission – if the sender's facsimile produces a transmission report indicating that the facsimile was sent in its entirety to the addressee's facsimile, the report will be prima facie evidence that the facsimile was received by the addressee at the time indicated on that report; or
  - (d) in the case of electronic notification - by properly addressing the electronic notification and transmitting it;

but if such delivery or receipt is later than 4 p.m. (local time) on a day on which business is generally carried on in the place to which such notice is sent, it shall be deemed to have been duly given or made at the commencement of business on the next such day in that place.

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