

# **Brazilian Community Council of Australia Incorporated**

## **Constitution**

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# Part 1 - Preliminary

## 1. Definitions

(1) In this constitution:

**Director-General** means the Director-General of the Department of Services, Technology and Administration.

**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 such 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.

**Motion** means a proposal or a question put forward by an association member and moved by the Chairperson for voting in the general meetings other than a special resolution.

**Resolution** means a formal decision passed by the association in accordance with its constitution usually at the general meeting approved by the members present or in a postal ballot approved by the committee and entitled to vote.

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

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

(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.

(3) The provisions of the *Interpretation Act 1987* 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.

## **2. Name of Association**

- (1) The name of the association shall be Brazilian Community Council of Australia Incorporated hereinafter referred as the association.

## **3. Objectives**

- (1) The objectives of the association shall be:
  - (a) To promote Brazilian culture within the general community.
  - (b) To promote solidarity amongst members of the Brazilian community and develop their awareness regarding their rights.
  - (c) To identify and advocate the needs of the Brazilian community in Australia.
  - (d) To assist Brazilian residents in their settlement in Australia.
  - (e) To work towards increasing friendship and cultural exchange between Australia and Brazil.
  - (f) To endeavour to relieve poverty, sickness and distress of the local community irrespective of ethnic, Aboriginal, cultural or religious background:
  - (g) To provide support service for Portuguese speaking aged, people with a disability and other minority groups to pursue their life's goal and increase their social inclusion.

## **Part 2 – Membership**

### **4. Membership generally**

- (1) A person is eligible to be a member of the association if:
  - (a) the person is a natural person, and
  - (b) the person has been nominated and approved for membership of the association in accordance with clause 5.
- (2) A person is taken to be a member of the association if:
  - (a) the person is a natural person, and
  - (b) the person was:
    - (i) in the case of an unincorporated body that is registered as the association - a member of that unincorporated body immediately before the registration of the association, or
    - (ii) in the case of an association that is amalgamated to form the relevant association - a member of that other association immediately before the amalgamation, or
    - (iii) in the case of a registrable corporation that is registered as a association - a member of the registrable corporation immediately before that entity was registered as an association.
- (3) A person is taken to be a member of the association if the person was one of the individuals on whose behalf an application for registration of the association under section 9 (1) (a) of the Act was made.

## **5. Application for membership**

- (1) An application of a person for membership of the association:
  - (a) must be made in writing (including by email or other electronic means, if the committee so determines) in the form determined by the committee, and
  - (b) must be lodged (including by electronic means, if the committee so determines) 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) As soon as practicable after the committee makes that determination, the secretary must:
  - (a) notify the applicant, in writing (including by email or other electronic means, if the committee so determines), 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.
- (4) The secretary must, on payment by the applicant of the amounts referred to in subclause (3) (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.

## **6. Membership**

- (1) Membership is open to all individuals and organisations who accept the objectives and rules of the association.
- (2) The association has three types of membership, namely:
  - (a) Individual
  - (b) Family, which includes: partner/spouse and dependent children only.
  - (c) Business – Individual or organizational entity involved in the provision of goods and services to consumers.
- (3) Rights associated with membership
  - (a) to receive notice of, attend and vote at general meetings of the association,
  - (b) to nominate (or second) eligible individuals for election to the management committee
  - (c) to be elected or appointed to the management committee or sub-committee, and
  - (d) to receive information about the association's activities
- (4) Business membership rights and responsibilities
  - (a) Each business member of the association may appoint a delegate to exercise its membership rights.
  - (b) A business member cannot be elected or appointed to the committee; however, the delegate of a business member can be elected or appointed to the committee.

- (c) A business member is responsible for any statement, action taken, or decision made on its behalf by its delegate.
- (d) Each business member must provide the management committee with name and address of its delegate. This notice must be in writing and signed by the member's Secretary or equivalent.
- (e) A business member may at any change its delegate by notification in writing given to the Secretary of the association. The member must also advise its delegate of the change.

## **7. Cessation of membership**

- (1) A person ceases to be a member of the association if the person:
  - (a) dies, or
  - (b) resigns membership, or
  - (c) is expelled from the association, or
  - (d) fails to pay the annual membership fee under clause 8 (2) within 3 months after the fee is due.
- (2) A business ceases to be a member of the association if the organization:
  - (a) is in winding up process, has its incorporation cancelled or in liquidation or dissolution of business.
  - (b) resigns from membership by notice in writing to the Secretary.
  - (c) fails to pay annual membership fee within 3 months of the due date
  - (d) has been terminated of its membership.

## **8. Membership entitlements not transferable**

A right, privilege or obligation, which a person has by reason of being a member of the association:

- (a) is not capable of being transferred or transmitted to another person, and
- (b) terminates on cessation of the person's membership.

## **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 one month (or such other period as 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) specifying the name and postal, residential or email address of each person who is a member of the association together with the date on which the person became a member.
- (2) 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.
- (3) The register of members must be open for inspection, free of charge, by any member of the association at any reasonable hour.
- (4) 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.
- (5) 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.
- (6) 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.
- (7) If the register of members is kept in electronic form:
  - (a) it must be convertible into hard copy, and
  - (b) the requirements in subclauses (2) and (3) 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) Members shall pay such fees as determined by the association at a general meeting.
- (2) Membership fees shall fall due on the first day of each financial year of the association. The financial year of the association shall run from 1 July to the following 30 June, as stated on clause 50 Financial Year.

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

### **14. Disciplining of members**

- (1) A complaint may be lodged 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, produce a 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 of the committee**

Subject to the Act, the Regulation and this constitution and to 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 such functions as 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 such acts and do all such things as appear to the committee to be necessary or desirable for the proper management of the affairs of the association.

### **17. Composition and membership of committee**

- (1) The committee is to consist of:
  - (a) the office-bearers of the association, and
  - (b) at least 3 ordinary committee members, each of whom is to be elected at the annual general meeting of the association under clause 18.
- (2) The total number of committee members is to be 7.
- (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 president and vice-president offices).
- (5) Each member of the committee is, subject to this constitution, to hold office until the conclusion of the annual general meeting following the date of the member's election, but is eligible for re-election.
- (6) Officer bearers of the association shall be Brazilian born or direct descendent of a Brazilian parent..
- (7) Committee Members must be a person who is at least 18 years of age and permanent residents in New South Wales.
- (8) Members of the management committee shall not be family members or commercial partners.
- (9) No member of the management committee may hold the same office bearing position for a period exceeding two (2) consecutive years.
- (10) No remuneration or other benefit in money or money's work shall be paid or given by the association to any member of the management committee except for the payment of out-of-pocket expenses incurred by the management committee member in the performance of a duty as a committee member, previously approved by the management committee.
- (11) No member of the management committee can be appointed to any salaried office of the association or any office of the association paid by fees, and no holder of such an office may be appointed to the committee.

## **18. Election of committee members**

- (1) Nominations of candidates for election as office-bearers of the association or as ordinary committee members:
  - (a) must be made in writing, signed by 2 members of the association and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination), and
  - (b) must be delivered to the secretary of the association at least 7 days before the date fixed for the holding of the annual general meeting at which the election is to take place.
- (2) If insufficient nominations are received to fill all vacancies on the committee, the candidates nominated are taken to be elected and further nominations are to be received at the annual general meeting.
- (3) If insufficient further nominations are received, any vacant positions remaining on the committee are taken to be casual vacancies.
- (4) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.
- (5) If the number of nominations received exceeds the number of vacancies to be filled, a ballot is to be held.
- (6) The ballot for the election of office-bearers and ordinary committee members of the committee is to be conducted at the annual general meeting in such usual and proper manner as the committee may direct.

- (7) A person nominated as a candidate for election as an office-bearer or as an ordinary committee member of the association must be a 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**

- (1) It is the duty of the treasurer of the association to ensure:
- (a) that all money received by the association is deposited at the earliest possible date to the credit of the association's bank account.
  - (b) all payments are made by cheque or electronic transfer signed by two signatures authorised by the committee or through a petty cash system.
  - (c) any major or unusual expenditure shall be authorised in advance by the management committee or a general meeting.
  - (d) receipts for all money received are issued promptly.
  - (e) all accounts are presented to and passed for payment at a meeting of the management committee and full details of the approval are entered in the minute book.
  - (f) Each committee meeting and the annual general meeting receive a report on the financial position of the association and
  - (g) The books and accounts of the association are audited annually, if required.
- (5) The association's accounting records are to be held in the custody or control of the Treasurer and must be made available for inspection by any member, free of charge, upon giving reasonable written notice to the committee.

## **21. Casual vacancies**

- (1) In the event of a casual vacancy occurring in the membership of the committee, the committee may appoint a member of the association to fill the vacancy and the member so appointed is to hold office, subject to this constitution, until the conclusion of the annual general meeting next following the date of the appointment.

- (2) A casual vacancy in the office of a member of the committee occurs if the member:
  - (a) dies, or
  - (b) ceases to be a member of the association, or
  - (c) 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 remove by resolution any member of the committee from the office of member before the expiration of the member's term of office. It also may appoint by resolution 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. Conflict of Interests**

- (1) A committee member, who is directly or indirectly interested in a contract or proposed contract with the association, must as soon as practicable after the relevant facts have come to that person's attention, declare the nature of the interest at the earliest meeting of the committee; or if necessary to request a special committee meeting to be organized for a resolution regarding the conflict of interest affecting his committee role.
- (6) A committee member who occupies a position or owns property, which may lead to a conflict with his or her duties or interest as a committee member must declare the fact and the nature of the conflict.
- (7) A committee member must leave a meeting of the committee and take no part in the decision making when the relevant meeting is considering:

- (a) the appointment, conditions of service, or remuneration of a person who belongs to the committee member's immediate family;
- (b) any proposal for the supply of goods or services by the committee member or his/her company;
- (c) any proposal for the supply of goods or services by a person who belongs to the committee member's family.

## **24. Committee meetings and quorum**

- (1) The committee must meet at least 3 times in each period of 12 months at such place and time as 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 such other period as 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 and unanimously agree to treat as urgent business.
- (5) Any 3 members of the committee constitute a quorum for the transaction of the business of a meeting of the committee.
- (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 the same place and at the same hour of the same day in the following week.
- (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, such one of the remaining members of the committee as may be chosen by the members present at the meeting is to preside.

## **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 such member or members of the association as the committee thinks fit) the exercise of such of the functions of the committee as 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 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 such conditions or limitations as to the exercise of any function, or as to time or circumstances, as 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. 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 24 (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**

### **28. Annual general meetings - holding of**

- (1) The association must hold its first annual general meeting within 18 months after its registration under the Act.
- (2) The association must hold its annual general meetings:
  - (a) within 6 months after the close of the association's financial year, or
  - (b) within such later time as may be allowed by the Director-General or prescribed under section 37 (2) (b) of the Act.

### **29. Annual general meetings - calling of and business at**

- (1) The annual general meeting of the association is, subject to the Act and to clause 28, to be convened on such date and at such place and time as 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) An annual general meeting must be specified as such in the notice convening it.

### **30. Special general meetings - calling of**

- (1) The committee may convene, whenever it thinks fit, a special general meeting of the association.
- (2) The committee must convene, on the requisition in writing of at least 5 per cent of the total number of members, a special general meeting of the association.
- (3) A requisition of members for a special general meeting:
  - (a) must state the purpose or purposes of the meeting, and
  - (b) must be signed by the members making the requisition, and
  - (c) must be lodged with the secretary, and
  - (d) 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 that date, on which a requisition of members for the meeting is lodged with the Secretary, any one or more of the members who made the requisition may convene a special general meeting to be held not later than 3 months after that date.

- (5) A special general meeting convened by a member or members as referred to in subclause (4) must be convened as nearly as is practicable in the same manner as by rule general meetings are convened by the committee.
- (6) For the purpose 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.

### **31. 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 and the nature of the business proposed to be transacted at the meeting.
- (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.
- (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 29 (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.

### **32. 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) Five members present (being members entitled under this constitution to vote at a general meeting) constitute a quorum for the transaction of the business of a general meeting.
- (3) If within half an hour after the appointed time for the commencement of a general meeting a quorum is not present, the meeting:
  - (a) if convened on the requisition of members, is to be dissolved, and
  - (b) in any other case, is to stand adjourned to the same day in the following week at the same time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to members given before the day to which the meeting is adjourned) at the same place.
- (4) If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the members present (being at least 3) are to constitute a quorum.



### **33. 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.

### **34. 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.

### **35. Making of decisions**

- (1) A question arising at a general meeting of the association is to be determined by either:
  - (a) a show of hands or, if the meeting is one to which clause 39 applies, any appropriate corresponding method that the committee may determine, or
  - (b) if on the motion to the Chairperson or if 5 or more members present at the meeting decide that the question should be determined by a written ballot .
- (2) If the question is to be determined by a show of hands, a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the association, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.
- (3) If the question is to be determined by a written ballot, the ballot is to be conducted in accordance with the instruction of the Chairperson.

### **36. Special resolutions**

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

- (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. A direction under subsection (1) (c) may not be given unless the (4) 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).

### **37. Voting**

- (1) On any question, arising at a general meeting of the association a member has one vote only.
- (2) In the case of an equality of votes on a question at a general meeting, the chairperson of the meeting is entitled to exercise a second or casting vote.
- (3) A member is not entitled to vote at any general meeting of the association unless all money due and payable by the member to the association has been paid.
- (4) A member is not entitled to vote at any general meeting of the association if the member is under 18 years of age.

### **38. Proxy votes not permitted**

Proxy voting is not allowed at or in respect of a general meeting.

### **39. Postal or electronic ballots**

- (1) The association may hold a postal or electronic ballot to determine any issue or proposal (other than an appeal under clause 15).
- (2) A postal ballot shall be conducted in accordance with the Associations Incorporation Regulation 2010, Schedule 3.

### **40. 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

## **Part 5 - Miscellaneous**

### **41. Insurance**

The association may effect and maintain insurance.

### **42. Funds - source**

- (1) The funds of the association are to be derived from entrance fees and annual subscriptions of members, donations, government grants and, subject to any resolution passed by the association in general meeting, such other sources as 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 produce, as soon as practicable after receiving any money, an appropriate receipt.

### **43. Funds - management**

- (1) Subject to any resolution passed by the association in general meeting, the funds of the association are to be used in pursuance of the objects of the association in such manner as the committee determines.
- (2) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by any 2 members of the committee, being the authorized members to do so by the committee.

### **44. Association is non-profit**

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.

### **45. 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 objective 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.

#### **46. Change of name, objects and constitution**

An application to the Director-General 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.

#### **47. 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.

#### **48. 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.

#### **49. Service of notices**

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

- (c) in the case of a notice sent by facsimile transmission or some other form of electronic transmission, on the date it was sent or, if the machine from which the transmission was sent produces a report indicating that the notice was sent on a later date, on that date.

## **50. 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.

# Appendix 1 Application for membership of association

(Clause 4 (1))

## APPLICATION FOR MEMBERSHIP OF ASSOCIATION

.....

[name of association]

Incorporated (incorporated under the *Associations Incorporation Act 2009*)

I, .....

[full name of applicant]

of .....

[address]

.....

[occupation]

hereby apply to become a member of the above named incorporated association. In the event of my admission as a member, I agree to be bound by the constitution of the association for the time being in force.

.....

*Signature of applicant*

Date

I, .....

[full name]

a member of the association, nominate the applicant for membership of the association.

.....

*Signature of proposer*

Date

I, .....

[full name]

a member of the association, second the nomination of the applicant for membership of the association.

.....

*Signature of seconder*

Date