

CONSTITUTION OF PORT STEPHENS FM RADIO INCORPORATED

Under the Associations Incorporation Act 2009

OBJECTS OF THE ASSOCIATION

- To provide an organisation for interested persons to establish and subsequently conduct the business of and operate, a Frequency Modulated Community Radio Station in the Port Stephens and surrounding areas.
- To promote a high standard of efficiency and professional conduct among the members of the Association and the presenters engaged for the radio station.
- To organise and encourage diverse forms of membership of the Association; to raise funds by various means such as sponsorships and all other recognised and legal forms of fundraising.
- To appoint, employ, remove or suspend such managers, secretaries, volunteers, sub-contractors and other persons as may be necessary or appropriate for the purposes of the Association.
- To construct, improve, maintain, develop, work, manage, carry out, alter or control any buildings, groundworks, or conveniences which may seem calculated directly or indirectly to advance the Association's interests and to contribute to, subsidise, or otherwise assist and take part in such works.
- To invest and deal with the money of the Association not immediately required in such a manner as may be permitted by law for the investment of funds held by the Association.
- To borrow or raise or secure the payment of money in such a manner as the Association may think fit and to secure the same, or the repayment or performance of any debt, liability, contract, guarantee or other engagement incurred or entered into by the Association.

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Part 1 Preliminary

1 Definitions

“**The Act**” means the Associations Incorporations Act 2009.

“**The Regulations**” means the Association Incorporations Regulations 2016.

(1) In this Constitution:

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

(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.

(a) In these rules, except in so far as the context or subject matter otherwise indicates or requires:

“**Annual General Meeting**” shall be the meeting held in accordance with clause 28.

“**Association**” means Port Stephens FM Radio Incorporated its successors and assigns.

“**By-laws**” means the by-laws of the Association for the time being in force.

“**Committee**” shall mean the Committee as elected in accordance with Clause 16 or 17.

“**Elected Position**” means any position or office in the Association other than that of an office bearer or of an ordinary member of the Committee.

“**Ordinary Member**” means a member of the Association who is not an office bearer of the Association, as referred to in clause 15.

“**Life Member**” means a member of the Association who is elected as a life member in accordance with the Rules of the Association from time to time.

“**Rules**” means the rules, policies and procedures of the Association for the time being in force.

“**Secretary**” means:

(i) the person holding office under these rules as secretary of the Association;
or

(ii) where 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.

“**Special Resolution**” means a resolution of the Association if it is passed by a majority which comprises not less than three quarters of such members of the

Association as, being entitled under these rules to do so, and in accordance with Section 39 of the Act.

“**Surplus Property**” means surplus property of the Association as defined in Section 65 of the Act.

Part 2 Membership

2 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 applied and been approved for membership of the Association in accordance with clause 3, and
 - (c) the person has not been expelled as a member of the Association at any time after incorporation of the Association.
- (2) A person is taken to be a member of the Association if:
 - (a) the person is a natural person.
- (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 6(1)(a) of the Act was made.
- (4) Port Stephens FM Inc. has the following types of membership:
 - (a) Associate Member. Has no voting rights but is keen to be a part of the station community
 - (b) Full Member. Has voting rights after 3 months of being financial.
 - (c) Support Member. Must be a member as subclause 2(4)(b) but provides admin, tech or other ongoing support to day-to-day tasks at the station. Must have signed a current Volunteer’s Agreement before being approved to conduct activities.
 - (d) Presenter. Must be a member as subclause 2(4)(b) but provides presenting as either a regular or fill in for on air programs. Must have signed a current Presenter’s Agreement before being approved to conduct activities.
 - (e) Life Member. Must be a member as subclause 2(4)(b) and is awarded the status in accordance with clause 13.
 - (f) Patron. Is awarded the status in accordance with clause 13.

3 Application for membership

- (1) An application by 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 shall be proposed and seconded by current standard members, and
 - (b) must be lodged (including by electronic means, if the Committee so determines) with the secretary of the Association.
- (2) Within six weeks after receiving an application for membership the secretary must refer the application to the Committee, which is to determine whether to approve or to reject the application.

- (3) The Committee will review every application for membership and decide whether such application is to be accepted. The Committee shall have absolute discretion in determining whether or not to accept an application by any prospective member and will not be obliged to give any reasons for its decisions. Within two weeks 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 membership application, and
 - (b) if the Committee approved the membership application, request the applicant to pay (within the period of 28 days after receipt by the applicant of the notification) the sum payable under clause 8 of 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 current member of the Association.

4 Cessation of membership

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(3) within 1 month of the membership fee being due.

5 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, and
- (c) is not available to the member during any period of suspension.

6 Resignation of membership

- (1) A member of the Association may resign from membership of the Association by first giving to the secretary written notice within 14 days 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.

7 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, for any member of the Association who has requested in writing such inspection. This inspection is to take place at the main premises of the Association, within 3 business days of receipt of the request, at a time convenient to both the member and an office-bearer of the Committee.
- (4) A member of the Association may not remove, copy or photograph any part of the register of members at the inspection.
- (5) The register of members is not to be given, posted, or electronically forwarded to any person, except to those persons authorised by the Committee.
- (6) If any member requests that any information contained on the register about that member (other than the member's name) not be made available for inspection, then that information must not be made available for inspection.
- (7) With the exception of notices authorised by the Association, a member must not use member information, obtained from the register, to contact or send material to members other than for:
- (a) the purposes of sending to that person such correspondence, notice of meeting or other information that is authorised by the Association, or
 - (b) any other purpose necessary to comply with a requirement of the Act or the Regulation or the rules of the Association.
- (8) 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.

8 Fees and subscriptions

- (1) A member of the Association must, on admission to membership, pay to the Association the current joining and membership fees as determined by the Committee.
- (2) If the member, on admission to membership, is to become a radio presenter, then such member, in addition to any membership fee determined in accordance with subparagraph (1) must pay a fee determined by the Committee from time to time as a fee applicable to persons who are engaged as a presenter which fee must be paid in addition to and at the same time as the membership fee.
- (3) In addition to any amount payable by the member under subclause (1) or (2), a member of the Association must pay to the Association the current annual membership fee as determined by the Committee.
- (a) within one month of the start of the current financial year, or
 - (b) if a member joins the Association on or after 30 April in any year they shall, upon being admitted as a member, pay an annual membership fee that is valid until 30 June in the following year.

9 Member's 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 8.

10 Resolution of grievances and disputes

- (1) (a) A dispute between a member and another member (in their capacity as members) of the Association, or
(b) a grievance or dispute between a member or members and the Association, are to be referred in the first instance to a Sub-Committee to be formed by the committee referred to as the Grievance Sub-Committee of the Association. This Sub-Committee is to attempt to resolve the issue and present options to the committee for resolution.
- (2) If a dispute is not resolved within three months, then the dispute is to be referred to a Community Justice Centre for mediation under the Community Justice Centres Act 1983.
- (3) 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.
- (4) The Commercial Arbitration Act 2010 applies to a dispute referred to arbitration.

11 Disciplining of Members

- (1) Where a complaint is made to the Committee by any person or where the Committee is of the opinion that a member of the Association:
 - (a) has acted in a manner determined by the Committee to be prejudicial or detrimental to the interests of the Association, or
 - (b) has acted in a manner that the Committee determines may bring, or has brought the Association into disrepute, or
 - (c) has breached a provision or provisions of any of:
 - (i) the rules of the Association or this Constitution; or
 - (ii) the Broadcasting Services Act 1992; or
 - (iii) any agreement entered into between a member as presenter and to the Association; or
 - (iv) any agreement entered into between the Association and a member as a volunteer; or
 - (v) the Community Radio Broadcasting Codes of Practice; or
 - (vi) any policies or procedures published by the Association from time to time; or
 - (vii) has refused or neglected to comply with a provision or provisions of any of the following: this Constitution, The Act, the Regulations, the Presenter Agreement, the Volunteer Agreement; the Community Radio Broadcasting Codes of Practice or any other Policies or Procedure documents relating to the conduct of the affairs of the Association.
 - (d) the Committee may, by resolution:
 - (i) expel the member from the Association, or
 - (ii) suspend the member from membership of the Association for a specified period.

- (2) The Committee may refuse to deal with a complaint if it considers the complaint to be trivial or vexatious in nature.
- (3) (a) A resolution of the Committee under clause 11(1) is of no effect unless the Committee, at a meeting held not earlier than 14 days and not later than 28 days after service on the member of a notice under clause 11(3)(b), confirms the resolution in accordance with this rule.
- (b) Where the Committee passes a resolution under clause 11(1), the secretary shall, within 14 days, cause a notice in writing to be served on the member:
 - (i) setting out the resolution of the Committee and the grounds on which it is based; and
 - (ii) stating that the member may address the Committee at a meeting to be held not earlier than 14 days and not later than 28 days after service of the notice; and
 - (iii) stating an agreed date, place and time of that meeting; and
 - (iv) informing the member that the member may do either or both of the following:
 - (A) attend and speak at that meeting, and/or
 - (B) submit to the Committee at or prior to the date of that meeting written representations relating to the resolution.
- (c) At a meeting of the Committee held as referred to in clause 11(3)(b), the Committee shall:
 - (i) give to the member an opportunity to make oral representations, and
 - (ii) give due consideration to any written representations submitted to the Committee by the member at or prior to the meeting, and
 - (iii) by resolution determine whether to confirm or to revoke the resolution.
- (d) Where the Committee confirms a resolution under clause 11(3)(c), the secretary shall, within (7) days after that confirmation, by notice in writing inform the member of the fact and of the member's right of appeal under clause 12.
- (e) A resolution confirmed by the Committee under clause 11(3)(d) does not take effect:
 - (i) until the expiration of the period within which the member is entitled to appeal against the resolution where the member does not exercise the right of appeal within that period, or
 - (ii) where within that period the member exercises the right of appeal, unless and until the Association confirms the resolution pursuant to rule 12.

12 Right of appeal of disciplined member

- (1) A member may appeal to the Association against a resolution of the Committee under clause 11, within 7 days after notice of the resolution is served on the member, by lodging with the secretary a notice to that effect.
- (2) The notice may, but need not, be accompanied by a statement of the grounds on which the member intends to rely for the purposes of the appeal.

- (3) On receipt of a notice from a member under subclause (1), the secretary must notify the Committee, which is to convene a general meeting of the Association to be held within 28 days after the date on which the secretary received the notice.
- (4) At a general meeting of the Association convened under subclause (3):
 - (a) no business other than the question of the appeal is to be transacted, and
 - (b) the Committee and the member must be given the opportunity to state their respective cases orally or in writing, or both, and
 - (c) the members present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- (5) The appeal is to be determined by a simple majority of votes cast by members of the Association.

13 Patrons and Life Members

- (1) The Association may in a General Meeting by majority of two-thirds of those present and voting confer on any person the title of patron provided that the number of patrons at any time shall not exceed five (5) in number.
- (2) The Association may in a General Meeting by Special Resolution confer on any person subject to his or her consent being had and obtained the title of Life Member for meritorious service rendered to the Association or to the former Association and upon such appointment of his or her name shall be entered in the Register of Members.
- (3) The number of life members shall not be limited.
- (4) No person shall become a Life Member unless he or she shall first be nominated and commended therefore by the Committee. Members may nominate a person for consideration by the Committee.
- (5) A Patron or Life Member shall be permitted to attend any General Meeting of the Association and address such meeting, join in discussions and shall be entitled to vote.

Part 3 The Committee

14 Powers of the Committee

Subject to the Act, the Regulation, this Constitution and any resolution passed by the Association in a General Meeting, the Committee:

- (a) is to control and manage the affairs of the Association; and
- (b) may exercise all the functions that may be exercised by the Association, other than those functions that are required by this Constitution to be exercised by a General Meeting of members of the Association; and
- (c) has power to perform all the acts and do all things that appear to the Committee to be necessary or desirable for the proper management of the affairs of the Association; and
- (d) may make such by-laws not inconsistent with these Rules as in the opinion of the Committee are necessary or desirable for the proper control, administration and management of the Association's finances, affairs, interests, property and activities.

15 Composition and membership of committee

- (1) The Committee is to consist of:

(a) the office-bearers of the Association, and

(b) at least 4 ordinary committee members,

each of whom is to be elected at the Annual General Meeting of the Association under clause 16.

Note. Section 28 of the Act contains further requirements concerning eligibility for membership and composition of the committee.

(2) The total number of committee members is to be 8.

(3) The office-bearers of the Association are as follows:

(a) the President, and

(b) the Vice-President, and

(c) the Treasurer, and

(d) the Secretary.

(4) The ordinary committee positions of the Association are as follows:

(a) the Marketing Manager, and

(b) the Programming Director, and

(c) the Technical Officer, and

(d) the General Committee Position.

(5) A committee member may hold up to 2 offices (other than both the offices of President and Vice-President) until the casual vacancy is filled.

(6) A committee member may hold office for only 3 consecutive terms.

(7) Each member of the committee is, subject to this Constitution, to hold office until immediately before the election of Committee members at the annual general meeting, and is eligible for re-election.

(a) Committee positions are for a two year term with half of the positions becoming vacant every year.

(b) The President, Treasurer, Marketing Manager and General Committee position are declared vacant one year and Vice President, Secretary, Technical Officer and Programming Director the other year. This process avoids the possibility of a loss of corporate knowledge.

16 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 28 days before the date fixed for the holding of the annual general meeting at which the election is to take place.

(2) If only one nomination is received to fill a vacancy on the Committee, the candidate nominated is taken to be elected.

- (3) If the number of nominations for a vacancy exceeds one, then either a postal ballot or an electronic ballot is to be held in any usual and proper manner that the committee directs.
- (4) If no nomination is made for a vacancy then nominations are to be called at the General Meeting and voted on as required.
- (5) If insufficient further nominations are received, any vacant positions remaining on the Committee are taken to be casual vacancies.
- (6) The results of either the postal or electronic ballot for the election of office-bearers and ordinary committee members are to be announced at the Annual General Meeting in any usual and proper manner that the committee directs.
- (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 current financial member of the Association.

17 Election by postal ballot

Where the Committee determines that the election to fill vacancies occurring by virtue of a retirement or retirements pursuant clause 15, or regular committee changeover, is to be by postal ballot:

- (1) the Committee will appoint a "Returning Officer" 55 days prior to the next General Meeting for which the election is to be held. If the Committee fails to appoint a Returning Officer, then the secretary is deemed to have been so appointed; and
- (2) the Returning Officer must cause notice of the election to be given and call for nominations no less than 45 days prior to the General Meeting. This notice must be in accordance with clause 30 and must state that nominations must be received no later than the date 35 days prior to the General Meeting; and
- (3) every nomination for committee member must be in the form determined by the Committee from time to time and signed by the nominee. The nomination must state the nominee's name, age and such other information as the nominee wishes to include but must not exceed 250 words in length; and
- (4) the Returning Officer must not accept nominations received after the date 35 days prior to the Annual General Meeting; and
- (5) if there are insufficient nominations for committee member, the Returning Officer must declare the persons nominated to be elected unopposed. The Committee must then fill any further vacancy or vacancies as casual vacancies in accordance with clause 20; and
- (6) the Returning Officer must cause ballot papers to be prepared in the form determined by the Committee and sent to Members no later than 21 days prior to the Annual General Meeting; and
- (7) each member is to complete the ballot paper and place it in the ballot envelope addressed to the Returning Officer but otherwise unmarked (Interior Envelope). This envelope in turn must be placed in a further envelope (Exterior Envelope) also addressed to the Returning Officer but bearing the voting member's name and address; and
- (8) upon being satisfied that the person named on the Exterior Envelope is a member then entitled to vote, the Returning Officer must remove the Interior Envelope and place it in

a sealed container, ensuring always that the Interior Envelope is unmarked and the voter cannot be identified; and

- (9) the ballot must close on the date 7 days prior to the Annual General Meeting and all ballot papers must be posted or otherwise delivered to reach the Returning Officer at the Association's Registered Office by that date; and
- (10) the Returning Officer must keep full and verifiable records such that the number of ballot papers distributed to members can be reasonably reconciled with the number of ballot papers printed and the number of ballot papers retained; and
- (11) following the close of the ballot and prior to the General Meeting, the Committee must appoint two scrutineers (not being members of the association) who, together with the Returning Officer, must count the votes cast; and
- (12) if any question arises as to a member's entitlement to vote or as to the propriety of any vote that question is to be determined By the Returning Officer acting reasonably.

18 Secretary

- (1) The secretary of the Association must, as soon as practicable after being appointed as secretary, lodge notice with the appropriate government authorities of their 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) It is the duty of the secretary to submit all forms, returns, and information as required by statutory authorities.
- (5) The signature of the chairperson may be transmitted by electronic means for the purposes of subclause (3).

19 Treasurer

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

- (a) that all money due to the Association is collected and received and that all payments authorised by the Association are made; and
- (b) that correct books and accounts are kept showing the financial affairs of the Association, including full details of all receipts and expenditure connected with the activities of the Association; and
- (c) that all forms, returns, and information as required are submitted to statutory authorities.

20 Casual vacancies

- (1) In the event of a casual vacancy occurring in the membership of the Committee, the Committee must appoint a member of the Association to fill the vacancy within 28 days and the member so appointed is to hold office, subject to this Constitution, until 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) is or becomes an insolvent under administration within the meaning of the Corporations Act 2001 of the Commonwealth, or
- (d) resigns office by notice in writing given to the secretary, or
- (e) is removed from office under clause 21, 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.

21 Removal of committee members

- (1) The Association in a Special General Meeting may by resolution remove any member of the Committee from the office of member before the expiration of the member's term of office and may by resolution appoint another person to hold office until the expiration of the term of office of the member so removed.
- (2) If a member of the Committee to whom a proposed resolution referred to in subclause (1) relates makes representations in writing to the secretary or president (not exceeding a reasonable length) and requests that the representations be notified to the members of the Association, the Secretary or the President will 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.

22 Committee meetings and quorum

- (1) The Committee must meet at least 3 times in each period of 12 months at the place and time that the Committee may determine.
- (2) Additional meetings of the Committee may be convened by any member of the Committee by giving written request to the Secretary, who shall call the meeting within 48 hours to advise committee members of notice of the meeting.
- (3) Oral or written notice of a meeting of the Committee must be given by the secretary to each member of the committee at least 48 hours (or any other period that may be unanimously agreed on by the members of the Committee) before the time appointed for the holding of the meeting.
- (4) Notice of a meeting given under subclause (3) must specify the general nature of the business to be transacted at the meeting and no business other than that business is to be transacted at the meeting, except business which the committee members present at the meeting unanimously agree to treat as urgent business.
- (5) Any 4 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 proceeds with those present.
- (8) At a meeting of the Committee:
 - (a) the President or, in the President's absence, the Vice-President is to preside, or
 - (b) if the President and the Vice-President are absent or unwilling to act, one of the remaining members of the Committee chosen by the members present at the meeting is to preside.

23 Appointment of Association members as committee members to constitute quorum

- (1) If at any time the number of committee members is less than the number required to constitute a quorum for a committee meeting, the existing committee members may appoint a sufficient number of members of the Association as committee members to enable the quorum to be constituted.
- (2) A member of the Committee so appointed is to hold office, subject to this Constitution, until the annual general meeting next following the date of the appointment.
- (3) This clause does not apply to the filling of a casual vacancy to which clause 20 applies.

24 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.

25 Delegation by committee to Sub-Committee

- (1) The Committee may, by instrument in writing, delegate to one or more Sub-Committees (consisting of the member or members of the Association that the committee thinks fit) the exercise of any of the functions of the Committee that are specified in the instrument, other than:
 - (a) this power of delegation, and
 - (b) a function which is a duty imposed on the Committee by the Act or by any other law.
- (2) A function the exercise of which has been delegated to a Sub-Committee under this clause may, while the delegation remains unrevoked, be exercised from time to time by the Sub-Committee in accordance with the terms of the delegation.
- (3) A delegation under this clause may be made subject to any conditions or limitations as to the exercise of any function, or as to time or circumstances, that may be specified in the instrument of delegation.
- (4) Despite any delegation under this clause, the Committee may continue to exercise any function delegated.

- (5) Any act or thing done or suffered by a Sub-Committee acting in the exercise of a delegation under this clause has the same force and effect as it would have if it had been done or suffered by the Committee.
- (6) The Committee may, by instrument in writing, revoke wholly or in part any delegation under this clause.
- (7) A Sub-Committee may meet and adjourn as it thinks proper, sufficient to fulfil its responsibilities to the committee as delegated.

26 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 that 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 22(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

27 Annual General Meetings - holding of

- (1) The Association must hold its Annual General Meetings:
 - (a) within 6 months after the close of the Association's financial year, or
 - (b) within any later time that may be allowed or prescribed under section 37(2)(b) of the Act.

28 Annual General Meetings - calling of and business at

- (1) The Annual General Meeting of the Association is, subject to the Act and to clause 27, to be convened on the date and at the place and time that the Committee thinks fit.
- (2) In addition to any other business which may be transacted at an Annual General Meeting, the business of an Annual General Meeting is to include the following:
 - (a) to confirm the minutes of the last preceding Annual General Meeting and of any Special General Meeting held since that meeting, and
 - (b) to receive from the Committee reports on the activities of the Association during the last preceding financial year, and
 - (c) to elect office-bearers of the Association and ordinary committee members, and
 - (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 that type of meeting in the notice convening it.

29 Special General Meetings - calling of

- (1) The Committee may, whenever it thinks fit, convene a Special General Meeting of the Association.
- (2) The Committee must, on the requisition of at least 25% of the total number of members, convene a Special General Meeting of the Association.
- (3) A requisition of members for a Special General Meeting:
 - (a) must be in writing, and
 - (b) must state the purpose or purposes of the meeting, and
 - (c) must be signed by the members making the requisition, and
 - (d) must be lodged with the secretary, and
 - (e) may consist of several documents in a similar form, each signed by one or more of the members making the requisition.
- (4) If the Committee fails to convene a Special General Meeting to be held within 1 month after the date on which a requisition of members for the meeting is lodged with the secretary, any one or more of the members who made the requisition may convene a Special General Meeting to be held not later than 3 months after that date.
- (5) A Special General Meeting convened by a member or members as referred to in subclause (4) must be convened as nearly as is practicable in the same manner as general meetings are convened by the Committee.
- (6) For the purposes of subclause (3):
 - (a) a requisition may be in electronic form, and
 - (b) a signature may be transmitted, and a requisition may be lodged, by electronic means.

30 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 28(2).
- (4) Any member may seek to place an item of business or resolution before a general meeting. Any member who wishes to place a motion before an Annual General Meeting, must, at least fourteen (14) days before the next Annual General Meeting, give the secretary written notice of the items of business or resolution to be put to the General Meeting.

31 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) Twenty percent (20%) 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) is to be dissolved, and
 - (b) 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 10%) are to constitute a quorum.

32 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.

33 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.

34 Making of decisions

- (1) A question arising at a General Meeting of the Association is to be determined by:
 - (a) a show of hands or, if the meeting is one to which clause 39 applies, any appropriate corresponding method that the committee may determine, or
 - (b) if on the motion of the chairperson or if 5% or more members present at the meeting decide that the question should be determined by a written secret ballot, then a written secret ballot shall be held.

- (2) If the question is to be determined by a show of hands, a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the Association, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.
- (3) Subclause (2) applies to a method determined by the Committee under subclause (1) (a) in the same way as it applies to a show of hands.
- (4) If the question is to be determined by a written ballot, the ballot is to be conducted in accordance with the directions of the chairperson.

35 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 General 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 an electronic ballot conducted by the association.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 subclause (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 or electronic ballot referred to in subclause (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 or electronic ballot, and if conducted, must be conducted in accordance with the regulations.

36 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 Full 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 Full Member is not entitled to vote at any General Meeting of the Association if the member is under 18 years of age.
- (5) Associate Members are not eligible to vote in accordance with clause 2(4)(a).

37 Proxy votes not permitted

Proxy voting must not be undertaken at or in respect of a General Meeting.

38 Postal or electronic ballots

- (1) The Association may hold a postal or electronic ballot (as the committee determines) to determine any issue or proposal (other than an appeal under clause 12).

- (2) A postal (other than as provided in clause 17) or electronic ballot is to be conducted in accordance with Schedule 3 to the Regulation.

39 Use of technology at General Meetings

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

Part 5 Miscellaneous

40 Insurance

The Association must effect and maintain insurance sufficient to protect the Association, its Office Bearers and Committee, members; and all assets.

41 Funds - source

- (1) The funds of the Association are to be derived from entrance fees and annual subscriptions of members, donations and, subject to any resolution passed by the Association in a General Meeting, any other sources that the committee determines.
- (2) All money received by the Association must be deposited within 7 days and without deduction to the credit of the Association's bank or other authorised deposit-taking institution account.
- (3) The Association must, as soon as practicable after receiving any money, issue an appropriate receipt if requested.

42 Funds - management

- (1) Subject to any resolution passed by the Association in a General Meeting, the funds of the Association are to be used solely in pursuance of the objects of the Association in the manner that the committee determines.
- (2) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by 2 authorised signatories.

43 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.

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

44 Distribution of property on winding up of Association

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

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

45 Change of name, objects and Constitution

An application for registration of a change in the Association's name, objects or Constitution in accordance with section 10 of the Act is to be made by the public officer or a committee member.

46 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 secretary, or
- (b) 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.

47 Inspection of books etc

(1) Upon a request in writing to the Association, and with at least five (5) business day's notice from the receipt of the request, the following documents must be open, free of charge, for inspection by a member of the Association at the Association's administration offices:

- (a) this Constitution, and
- (b) financial records of the Association, and
- (c) minutes of all committee meetings and General Meetings of the Association, and
- (d) general records.

(2) The inspection is to take place during business hours at a time convenient to both the member and the Association, and may be supervised by the President or Secretary.

(3) The records are not to be removed from the administration offices of the Association and are not to be copied or photographed nor forwarded electronically to others.

(4) Despite subclause (1), the committee may refuse to permit a member of the Association to inspect 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.

48 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.

49 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.