



RATHMINES CATALINA
MEMORIAL PARK ASSOCIATION INC.

CONSTITUTION

October 2021

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Toronto 2283 NSW Australia
ABN: 38 215 922 527

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Part 1 Preliminary

1 History

- 1.1 The association evolved from a charitable trust called The Rathmines Catalina Memorial Park Trust. The trust was formed on 30th April 1998.
- 1.2 The association was incorporated under the *Associations Incorporation Act 2009* on 26 March 2014.

2 Definitions

2.1 In this constitution:

- “association” means The Rathmines Catalina Memorial Park Association Incorporated ABN 38 215 922 527.
- "ordinary committee member" means a member of the committee who is not an office-bearer of the association.
- “member” means an ordinary, associate, life or honorary member.
- “ordinary member” means a member who is over the age of 18 years.
- “associate member” means a member who is under 18 years of age.
- “honorary member” means a member who has been conferred with honorary membership pursuant to clause 4.5.
- “life member” means a member who has been conferred with life member pursuant to clause 4.6.
- "secretary" means:
 - the person holding office under this constitution as secretary of the association, or
 - 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.
- "the Act" means the Associations Incorporation Act 2009.
- "the Regulation" means the Associations Incorporation Regulation 2016.

2.2 In this constitution:

2.2.1 a reference to a function includes a reference to a power, authority and duty, and

2.2.2 a reference to the exercise of a function includes, if the function is a duty, a reference to the performance of the duty.

- 2.3 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.

3 Objects

3.1 The objects of the association are:

- (a) Preserving and maintaining the history, records and memorabilia of the former RAAF Rathmines Airbase and squadrons while undertaking cultural heritage research and public educational activities.
- (b) Memorialising the former RAAF Rathmines Airbase and squadron members and their significance to Australia in WWII.
- (c) Raising funds to assist the construction, maintenance and operation of a Museum and Heritage Centre.

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- (d) Sourcing and restoring relevant aircraft, equipment and memorabilia to ensure preservation of their unique heritage value and to recognise their contribution to former RAAF Rathmines Airbase and Australia's WWII commitment.
 - (e) Engaging community members in volunteering to further the association's objects and spread cultural and historic knowledge of the former RAAF Rathmines Airbase.

Part 2 Membership

4 Membership generally

- 4.1 Membership is divided into the following classes:
 - ordinary member.
 - associate member.
 - honorary member.
 - life member.
- 4.2 Ordinary, life, and honorary members have all the rights, privileges and obligations of a member under this constitution, the Act and the Regulation, including the right to vote at general meetings.
- 4.3 Associate members have all the rights, privileges, and obligations of an ordinary member other than the right to vote at general meetings of the association.
- 4.4 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 5.
- 4.5 The association reserves the right, by unanimous resolution of the committee, to confer an honorary membership on any person. An ordinary member who is conferred an honorary membership ceases to be an ordinary member of the association.
- 4.6 The association reserves the right, by unanimous resolution of the committee, to confer a life membership on any person, who has provided 10 years of continuous service to the association or in other circumstances the committee deems fit. An ordinary member who is conferred a life membership ceases to be an ordinary member of the association.

5 Application for membership

- 5.1 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, specifying the class of membership applied for, and
 - (b) must be lodged (including by electronic means if the committee so determines) with the membership officer.
- 5.2 As soon as practicable after receiving an application for membership, the membership officer must refer the application to the committee, which is to determine whether to approve or to reject the application.
- 5.3 As soon as practicable after the committee makes that determination, the membership officer must:
 - (a) notify the nominee 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

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- (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.
 - (c) The membership officer must, on payment by the applicant of the amounts referred to in clause 5.3 (b) within the period referred to in that provision, enter 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 Cessation of membership

6.1 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 10.1 (a) within 3 months after the fee is due, or
- (e) fails to be a fit and proper person.

7 Membership entitlements not transferable

7.1 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.

8 Resignation of membership

8.1 A member of the association may resign from membership of the association by giving to the secretary written notice of at least one month. On the expiration of the period of notice, the member ceases to be a member.

8.2 If a member of the association ceases to be a member under clause 8.1 the membership officer must make an appropriate entry in the register of members.

9 Register of members

9.1 The membership officer must establish and maintain a register of members of the association (whether in written or electronic form) specifying in relation to each member as a minimum:

- (a) the member's name
- (b) the member's postal, residential or email address
- (c) the date on which the person became a member
- (d) whether the member was an ordinary or associate member for the relevant year prior to the annual general meeting
- (e) the relevant skills and occupation of the member
- (f) the date a member ceases to be a member.

9.2 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 or
- (c) in a secure online format approved by the committee.

9.3 Any member may inspect their entry in the register, free of charge, at an arranged time or via electronic means.

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- 9.4 A member of the association is not entitled to obtain a copy of any part of the register other than their own data.
- 9.5 A committee member (or delegated authority) must not use information about a person obtained from the register to contact or send material to that 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.

10 Fees and subscriptions

- 10.1 A member of the association must, on admission to membership, pay to the association such fee (if any) as is determined by the committee from time to time.
- (a) In addition to any amount payable by the member under clause 10.1, a member of the association must pay to the association such annual membership fee (if any) as is determined by the committee before 1 July in each calendar year.
 - (b) Memberships are due and payable within 28 days of the commencement of each financial year.
 - (c) The committee can, at its discretion, waive the requirement to pay any fees imposed under clause 10.1 and / or 10.1 (a). Any resolution by the committee to waive the requirement to pay any fee imposed under clause 10.1 (a) for a particular member is to be determined by the committee from time to time before 1 July in each calendar year.
- 10.2 Clause 10.1 does not apply to an honorary or life member.

11 Members' liabilities

- 11.1 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 10.

12 Resolution of internal disputes

- 12.1 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*.
- 12.2 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.
- 12.3 The *Commercial Arbitration Act 2010* applies to a dispute referred to arbitration.

13 Disciplining of members

- 13.1 A complaint may be made to the committee by any person attesting 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.
- 13.2 The committee may refuse to deal with a complaint if it considers the complaint to be trivial or vexatious in nature.

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- 13.3 If the committee decides to deal with the complaint, the committee shall refer the matter to the next committee meeting or a sub-committee convened to deal only with the complaint.
- 13.4 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.
 - (d) refer a recommendation to the full committee for deliberation and final decision.
- 13.5 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.
- 13.6 If the committee expels or suspends a member, the secretary must, within 7 days after the action is taken, give written notice to the member of the action taken, the reasons for having taken the action and of the member's right of appeal under clause 14.
- 13.7 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 14, whichever is the later.

14 Right of appeal of disciplined member

- 14.1 A member may appeal a resolution of the committee under clause 13, within 7 days after notice of the resolution is served on the member, by lodging with the secretary a written notice to that effect.
- 14.2 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.
- 14.3 On receipt of a notice from a member under clause 14.1, the secretary must notify the committee, which is to engage external mediation within 28 days after the date on which the secretary received the notice.
- 14.4 The external mediator's decision is to be in writing and considered final.

Part 3 The Committee

15 Powers of the committee

- 15.1 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.

16 Composition and membership of committee

- 16.1 The committee is to consist of:
- (a) the office-bearers of the association, and
 - (b) at least 1 and up to 5 ordinary committee members, each of whom is to be elected at the annual general meeting of the association under clause 17.
- 16.2 The total number of committee members is up to a maximum of 9.
- 16.3 The office-bearers of the association are as follows:
- (a) the president
 - (b) the vice-president
 - (c) the treasurer
 - (d) the secretary.
- 16.4 A committee member may hold up to 2 offices (other than both the president and vice-president).
- 16.5 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 to nominate for re-election.

17 Election of committee members

- 17.1 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.
- 17.2 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.
- 17.3 If insufficient further nominations are received, any vacant positions remaining on the committee are taken to be casual vacancies.
- 17.4 If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.
- 17.5 If the number of nominations received exceeds the number of vacancies to be filled, a ballot is to be held.

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- 17.6 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.
- 17.7 A person nominated as a candidate for election as an office-bearer or as an ordinary committee member of the association must be an ordinary or life member of the association.

18 Secretary

- 18.1 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.
- 18.2 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 and others in attendance at a committee meeting or a general meeting, and
 - (c) all proceedings at committee meetings and general meetings.
- 18.3 Minutes of proceedings at a meeting must be signed by the chairperson of the meeting or by the chairperson of the next succeeding meeting.
- 18.4 The signature of the chairperson may be transmitted by electronic means for the purposes of clause 18.3.

19 Treasurer

- 19.1 It is the duty of the treasurer of the association to ensure:
- (a) all money due to the association is collected and received and that all payments authorised by the association are made, and
 - (b) 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.
 - (c) a general budget is prepared and approved by the committee
 - (d) reports are given against the budget at each committee meeting
 - (e) an audited annual financial statement is prepared for the annual general meeting.

20 Casual vacancies

- 20.1 In the event of a casual vacancy occurring in the membership of the committee, the committee may appoint an ordinary or life member of the association, to fill the vacancy. The term of a committee member who is filling a casual vacancy concludes at the subsequent annual general meeting; whereupon the position must be declared vacant, and an election held for a committee member to complete the remainder of the original committee member's term.
- 20.2 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) resigns office by 28 days' notice in writing given to the secretary, or
 - (d) is removed from office under clause 21, or
 - (e) becomes a mentally incapacitated person, or
 - (f) is absent without the consent of the committee from 3 consecutive meetings of the committee, or

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- (g) 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
 - (h) is prohibited from being a director of a company under Part 20.6 (Disqualification from managing corporations) of the *Corporations Act 2001* of the Commonwealth.

21 Removal of committee members

- 21.1 The association in general meeting may by ordinary resolution remove any member of the committee before the expiration of the member's term of office and may by ordinary resolution appoint another ordinary or associate member to hold office until the expiration of the term of office of the member so removed.

22 Committee meetings and quorum

- 22.1 The committee must meet at least 4 times in each period of 12 months at such place and time as the committee may determine.
- 22.2 Additional meetings of the committee may be convened by the president or by any member of the committee.
- 22.3 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.
- 22.4 Notice of a meeting given under clause 22.3 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.
- 22.5 Any 5 members of the committee constitute a quorum for the transaction of the business of a meeting of the committee.
- 22.6 No business is to be transacted by the committee unless a quorum is present and if, within half an hour of the time appointed for the meeting, a quorum is not present, the meeting is to stand adjourned to a place advised in writing by the Secretary at a place time day in the following week.
- 22.7 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.
- 22.8 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.

23 Use of technology at committee meetings

- 23.1 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.
- 23.2 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.

24 Delegation by committee to sub-committee

- 24.1 The committee may, by instrument in writing, delegate to one or more sub-committees (consisting of such member, members of the association and others 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.
- 24.2 A function 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.
- 24.3 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.
- 24.4 Despite any delegation under this clause, the committee may continue to exercise any function delegated.
- 24.5 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.
- 24.6 The committee may, by instrument in writing, revoke wholly or in part any delegation under this clause.
- 24.7 A sub-committee may meet and adjourn as it thinks proper.
- 24.8 A current committee member must act as Chairperson of a sub-committee.

25 Voting and decisions

- 25.1 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.
- 25.2 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.
- 25.3 Subject to clause 22.5, the committee may act despite any vacancy on the committee.
- 25.4 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

26 Annual general meetings-holding of

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

27 Annual general meetings-calling of and business at

- 27.1 The annual general meeting of the association is, subject to the Act and to clause 26, to be convened on such date and at such place and time as the committee thinks fit.
- 27.2 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
- 27.3 An annual general meeting must be specified as such in the notice convening it.

28 Special general meetings-calling of

- 28.1 The committee may, whenever it thinks fit, convene a special general meeting of the association.
- 28.2 The committee must, on the requisition in writing of at least 5 per cent of the total number of members, convene a special general meeting of the association.
- 28.3 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.
- 28.4 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.
- 28.5 A special general meeting convened by a member or members as referred to in clause 28.4 must be convened as nearly as is practicable in the same manner as general meetings are convened by the committee.

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- 28.6 For the purposes of clause 28.3:
- (a) a requisition may be in electronic form, and
 - (b) a signature may be transmitted, and a requisition may be lodged electronically.

29 Notice

- 29.1 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 ordinary and associate member specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.
- 29.2 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 clause (1), the intention to propose the resolution as a special resolution.
- Note.** A special resolution must be passed in accordance with section 39 of the Act.
- 29.3 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 27.2.
- 29.4 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.

30 Quorum for general meetings

- 30.1 No item of business is to be transacted at a general meeting unless a quorum of ordinary or life members is present during the time the meeting is considering that item.
- 30.2 Five ordinary or life members constitute a quorum for the transaction of the business of a general meeting. For the purpose of clause 30.2 the five ordinary or life members does not include any committee members who are in attendance.
- 30.3 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.
- 30.4 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.

31 Presiding member

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

32 Adjournment

- 32.1 The chairperson of a general meeting at which a quorum is present may, with the consent of the majority of members present, adjourn the meeting to another time and 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.
- 32.2 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.
- 32.3 Except as provided in clauses 32.1 and 32.2, 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.

33 Making of decisions

- 33.1 A question arising at a general meeting of the association is to be determined by:
 - (a) a show of hands or any appropriate corresponding method that the committee may determine, or
 - (b) if on the motion of the chairperson or if 3 or more members present at the meeting decide that the question should be determined by a written ballot.
- 33.2 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.
- 33.3 Clause 33.2 applies to a method determined by the committee under clause 33.1(b) in the same way as it applies to a show of hands.
- 33.4 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.

34 Special resolutions

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

35 Voting

- 35.1 On any question arising at a general meeting of the association an ordinary, life or honorary member has one vote only.
- 35.2 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.
- 35.3 An ordinary 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 and the ordinary member has been a member of the association for 28 days.

36 Proxy votes

- 36.1 Proxy votes will be accepted if lodged with the secretary 48 hours before a general meeting in hard or electronic copy.
- 36.2 Proxy votes must be lodged on the relevant form as approved by the committee.

37 Postal ballots

- 37.1 The association may hold a postal ballot or electronic ballot (as the committee determines) to determine any issue or proposal (other than an appeal under clause 14).
- 37.2 A postal ballot or electronic ballot is to be conducted in accordance with Schedule 3 to the Regulation.

38 Use of technology at general meetings

- 38.1 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.
- 38.2 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

39 Association is non-profit

- 39.1 Subject to the Act and the Regulation, the association must apply its funds and assets solely in pursuance of the objects of the association and must not conduct its affairs so as to provide a pecuniary gain for any of its members.

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

40 Distribution of property in winding up of the association

- 40.1 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.
- 40.2 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.
- 40.3 If upon the winding-up or dissolution of the public fund listed on the Register of Cultural Organisations, there remains after satisfaction of all its debts and liabilities, any property or funds, the property or funds shall not be paid to or distributed among its members, but shall be given or transferred to some other fund, authority or institution having objects similar to the objects of this public fund, and whose rules shall prohibit the distribution of its or their income among its or their members, such fund, authority or institution to be eligible for tax deductibility of donations under Subdivision 30-B, section 30-100, of the *Income Tax Assessment Act 1997*.

Note.:

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

41 Insurance

- 41.1 The association must effect and maintain relevant insurance as determined by the committee from time to time.

42 Sourcing of funds

- 42.1 The funds of the association are to be derived from events, grants, joining fees and annual subscriptions of members, donations, sponsorships and, subject to any resolution passed by the association in general meeting, such other sources as the committee determines.
- 42.2 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.
- 42.3 The association must, as soon as practicable after receiving any money, issue an appropriate receipt.

43 Management of funds

- 43.1 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.
- 43.2 All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by any 2 members of the committee or employees of the association, being members or employees authorised to do so by the committee.
- 43.3 Funds can be managed by electronic means with approval as specified in clause 43.2 above.
- 43.4 The Association will establish and maintain a public fund.

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- 43.5 Donations will be deposited into the public fund listed on the Register of Cultural Organisations. These monies will be kept separate from other funds of the Association and will only be used to further the principal purpose of the Association. Investment of monies in this fund will be made in accordance with guidelines for public funds as specified by the Australian Taxation Office.
- 43.6 The fund will be administered by a management committee or a subcommittee of the management committee, the majority of whom, because of their tenure of some public office or their professional standing, have an underlying community responsibility, as distinct from obligations solely in regard to the cultural objectives of the Association.
- 43.7 No monies/assets in this fund will be distributed to members or office bearers of the Association, except as reimbursement of out-of-pocket expenses incurred on behalf of the fund or proper remuneration for administrative services.
- 43.8 The Department responsible for the administration of the Register of Cultural Organisations will be notified of any proposed amendments or alterations to provisions for the public fund, to assess the effect of any amendments on the public fund's continuing Deductible Gift Recipient status.
- 43.9 Receipts for gifts to the public fund must state:
- (a) the name of the public fund and that the receipt is for a gift made to the public fund.
 - (b) the Australian Business Number of the association.
 - (c) the fact that the receipt is for a gift - and
 - (d) any other matter required to be included on the receipt pursuant to the requirements of the Income Tax Assessment Act 1997.
- 43.10 The association must comply with any rules that the Treasurer or the Minister for the Arts make to ensure that gifts made to the public fund will only be used for the association's principal purpose. The association must provide to the Department statistical information on the gifts made to the public fund every 6 months.

44 Change of name, objects and constitution

- 44.1 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.

45 Custody of books

- 45.1 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 or
 - (c) in a committee approved electronic repository.

46 Inspection of books

- 46.1 The following documents must be open to inspection, free of charge, by a member of the association at an agreed time:
- (a) records, books and other financial documents of the association,
 - (b) this constitution,
 - (c) minutes of all committee and general meetings of the association.

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- 46.2 A member of the association may obtain a copy of any of the documents in hard or electronic copy referred to in clause 46.1 on payment of a fee of not more than \$1 for each page copied.
- 46.3 Despite clauses 46.1 and 46.2, 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, financial, personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of the association.

47 Business plan

- 47.1 The committee must appoint a sub-committee under clause 24 to undertake the preparation of a detailed business plan for the association for the next financial year as well as a three-year strategy plan.
- 47.2 The business plan must be developed by the sub-committee taking into account the need to meet any anticipated grant or bank standards. The business plan must be revised each year and the draft business plan provided to the committee no later than March each year.
- 47.3 The committee must review the draft business plan and may approve the business plan or may request that the sub-committee revise it to meet the anticipated grant or bank standards. The business plan must be approved by the committee no later than 30 June each year for implementation in the subsequent financial year.

48 Service of notices

- 48.1 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.
- 48.2 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

- 49.1 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. Schedule 1 of the Act provides that an association's constitution is to address the association's financial year.