



# Australian and New Zealand Burn Association Limited

ABN 88 054 089 520

## Constitution

### Preliminary:

#### 1 Name and Registered Office

- 1.1 The name of the Association shall be the Australian and New Zealand Burn Association Limited; ABN: 88 054 089 520; CAN: 054 089 520.
- 1.2 The registered office of the Australian and New Zealand Burn Association shall be: C/- Davies Knox Maynards, Level 4, 179 Grey St, South Brisbane BC, Queensland 4104.

#### 2 Type of Association

- 2.1 The Association is a not-for-profit company limited by guarantee.
- 2.2 The Association is also registered as a charity under the Australian Charities and Not-for-profits Commission Act 2012 (from hereon known as the ACNC Act).

#### 3 Liability

- 3.1 The liability of members is limited to the amount of the Guarantee set out in Clause 4

#### 4 The Guarantee

- 4.1 Each member must contribute an amount not more than \$10 (the Guarantee) to the property of the Association if the Association is wound up while the member is a member, or within 12 months after they stop being a member, and this contribution is required to pay for:
  - a) The debts and liabilities the Association incurred before the member stopped being a member, or
  - b) The costs of winding up.

#### 5 Definitions

- 5.1 In this constitution, words and phrases and abbreviations have the meaning set out in Clause 60

### Charitable purposes and powers:

#### 6 Object (aims and objectives)

- 6.1 The objects for which the Association is established are:
  - a) To promote high standards of burn care
  - b) To promote burn injury prevention
  - c) To promote education and training in burn care and burn injury prevention
  - d) To promote and encourage research in burn care and burn injury prevention

- e) To advocate on issues that affects the Association's ability to meet these objects
- f) To hold or sponsor meetings, lectures, seminars, conferences within Australia and New Zealand to promote the understanding of burn care and burn injury prevention
- g) To foster and promote cooperation and association with associations with similar aims and objectives to the Association within Australia and New Zealand and internationally
- h) To advance public awareness of the practice of burn care and burn injury prevention
- i) To provide advice and information and opinion to other professional Associations and Government.
- j) To facilitate burn care and burn injury prevention education and support in overseas areas requesting such education
- k) To provide advice and support to members with respect to Clause 6.1.a) through to Clause 6.1.j)

## **7 Powers of the Association**

7.1 Subject to Clause 8, the Association has the following powers to carry out the objects of the Association as set out in Clause 6:

- a) The powers of an individual
- b) The powers of an Association limited by guarantee under the Corporations Act 2001 (Cth)(mentioned in this document from now on as 'the Corporations Act').

## **8 Not-for-profit**

8.1 The assets and income of the Association shall be used solely for the furtherance of the objects of the Association as set out in Clause 6

8.2 The Association shall not distribute any income or assets directly or indirectly to the members except as:

- a. Compensation for services rendered
- b. Compensation for expenses incurred on behalf of the Association
- c. Part of a member support program following approval by the Board

## **9 Amending the constitution**

9.1 Subject to Clause 9.2 and Clause 9.3, the members may amend the constitution by passing a Special Resolution

9.2 The members may not pass a Special Resolution that amends the constitution if by passing it causes the Association to no longer be a not-for-profit Association

9.3 A Special Resolution can only be passed at a General Meeting or the Annual General Meeting

## **Members:**

### **10 Membership**

#### 10.1 Register

- a) The Association will establish and maintain a Register of Members. The Register of Members will be kept by the Association Secretary.
- b) The Register must contain a minimum data set for each member that includes:
  - i. Name
  - ii. Address
  - iii. Any alternative method of communication nominated by the member
  - iv. The date the member was entered into the Register
- c) Information that is accessed from the Register must only be used in a manner relevant to the interests of the Association and in keeping with the rights of the member.
- d) The Association must give current members access to the Register of Members

#### 10.2 Eligibility

- a) A person who supports the purposes of the Association is eligible to apply to be a member of the Association under Clause 10.3 and Clause 10.4.
- b) In this Clause, “person” means an individual

### 10.3 Membership categories

- a) Membership Categories:
  - i. Ordinary member
  - ii. Associate member
  - iii. Honorary member
  - iv. Honorary Life member
- b) Ordinary member
  - i. Ordinary members shall be those who are qualified in the practice of medicine, nursing or allied professions
  - ii. Ordinary members shall be entitled to:
    - a. Receive communications and notices from the Association
    - b. Attend any general meeting of the Association
    - c. Vote either in person or by proxy (the proxy must be a current ordinary member)
    - d. Become Board members, Board Office Bearers or members of Board Committees
- c) Associate member
  - i. Associate members shall be those who are students in medicine, nursing or an allied profession, or any other person, who the Board determines has a significant association with or interest in burn care and/or burn injury prevention
  - ii. Associate members shall be entitled to:
    - a. Receive communications and notices from the Associations
    - b. Attend any general meeting of the Association
  - iii. Associate members shall not be entitled to vote or be elected as Board members, Board Officers or members of Board Committees
- d) Honorary member
  - i. Honorary members shall be those who in the opinion of the Board have rendered distinguished service to the Association itself or in relation to the Objects of the Association as set out in Clause 6
  - ii. Honorary members shall be entitled to:
    - a. Receive communications and notices from the Association
    - b. Attend any general meeting of the Association
  - iii. Honorary members shall not be entitled to vote or be elected as Board members, Board Officers or members of Board Committees
  - iv. Honorary membership shall be declared for a specific time period, usually for one year
  - v. Honorary members will not be required to pay subscription fees
- e) Honorary life member
  - i. Honorary life members shall be those on ceasing to be a member pursuant to Clause 10.5 and who in the opinion of the Board have rendered distinguished and outstanding service to the Association itself or in relation to the Objects of the Association as set out in Clause 6
  - ii. Honorary life members shall be entitled to:
    - a. Receive communications and notices from the Association
    - b. Attend any general meeting of the Association
  - iii. Honorary life members shall not be entitled to vote or be elected as Board members, Board Officers or members of Board Committees
  - iv. Honorary life membership shall be declared for the lifetime of the member
  - v. Honorary life members will not be required to pay subscription fees
  - vi. Members who currently hold Honorary Life Membership will need to apply to become an Ordinary member if the member wants to be entitled to the rights of an Ordinary member.

#### 10.4 Admission to Membership

- a) An application for Membership must:
  - i. Be made in writing or by electronic means and in the form and in the manner the Board from time to time decides
  - ii. Contain an undertaking to be bound by the provisions of this document and must specify the State or Territory of Australia or New Zealand in which the Member resides
  - iii. State the amount that the Member has guaranteed and undertaken to contribute to the Association's property if the Association is wound up
  - iv. Contain an undertaking to be bound by the prescribed Act (if any) applicable to that State, Territory or New Zealand
  - v. Include a payment for the membership subscription fee that is determined by the Board from time to time.
- b) An application for membership accompanied by the applicable subscription must be lodged with the Association's Secretary who must refer the application to the Board
- c) The Board may require any applicant for membership to give any information it desires before admitting the applicant to membership of the Association
- d) The Board may resolve whether or not to admit each applicant to membership
- e) The Board may refuse any application for membership without assigning any reason for refusal. If the application is rejected the Association's Secretary must return the subscription fee.
- f) An applicant for membership will be deemed admitted to membership on the Board so resolving. The Board may admit to membership through email resolution. After an applicant has become a Member that Member's name and address will be entered in the Register in the appropriate category of membership and the member will be notified as soon as possible.
- g) Subscriptions
  - i. Each member (except an Honorary Member or Honorary Life Member) is obliged to pay an annual subscription
  - ii. The annual subscription in respect of each class of membership will be the sum the Board from time to time determines
  - iii. Annual subscriptions will be payable annually in advance and will be due on the first day of July in each year or on such other date as may be determined from time to time by the Board
  - iv. A person applying for membership after the end of December in any year will be required to pay only one half of the annual subscription for the current financial year.

#### 10.5 Cessation of Membership

- a) Any member may resign from the Association by giving notice in writing to the Secretary. A resignation will not prejudice a member's obligation to pay any money that prior to the date of resignation was owed by the member to the Association.
- b) If the subscription of a member remains unpaid for a period of three months after notice of the default has been sent to the member the Board may, by resolution, terminate the membership of that member and the member's name will be removed from the Register but without prejudice to the member's obligation to pay the subscription
- c) Subject to these Articles the Board may at any time and from time to time terminate the membership of any member in any of the following cases:
  - i. If the member ceases to be eligible for membership of the Association
  - ii. When the member dies
  - iii. If the Board is of the opinion that in the interests of the Association the member is expelled under Clause 12.4
- d) On the termination of membership of any member the name of the member will be removed from the Register and the member will cease to have the rights and privileges of membership

### **Dispute resolution and disciplinary procedures:**

#### **11 Dispute resolution**

- 11.1 The dispute resolution procedure in this Clause applies to disputes (disagreements) under this constitution between a member or director and:
  - a. one or more members

- b. one or more directors, or
- c. the Association

11.2 A member must not start a dispute resolution procedure in relation to a matter that is the subject of a disciplinary procedure under Clause 12 until the disciplinary procedure is completed.

11.3 Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it.

11.4 If those involved in the dispute do not resolve it under Clause 11.3, they must within 10 days:

- a. tell the directors about the dispute in writing
- b. agree or request that a mediator be appointed, and
- c. attempt in good faith to settle the dispute by mediation.

11.5 The mediator must:

- a. be chosen by agreement of those involved, or
- b. where those involved do not agree:
  - i. for disputes between members, a person chosen by the directors, or
  - ii. for other disputes, a person chosen by either the Commissioner of the Australian Charities and Not-for-profits Commission or the president of the law institute or society in the state or territory in which the Association has its registered office.

11.6 A mediator chosen by the directors under Clause 11.5

- a. may be a member or former member of the Association
- b. must not have a personal interest in the dispute, and
- c. must not be biased towards or against anyone involved in the dispute.

11.7 When conducting the mediation, the mediator must:

- a. allow those involved a reasonable chance to be heard
- b. allow those involved a reasonable chance to review any written statements
- c. ensure that those involved are given natural justice, and
- d. not make a decision on the dispute.

## **12. Disciplining members**

12.1 In accordance with this Clause, the directors may resolve to warn, suspend or expel a member from the Association if the directors consider that:

- a. the member has breached this constitution, or
- b. the member's behaviour is causing, has caused, or is likely to cause harm to the Association.

12.2 At least 14 days before the directors' meeting at which a resolution under Clause 12.1 will be considered, the Association Secretary must notify the member in writing:

- a. that the directors are considering a resolution to warn, suspend or expel the member
- b. that this resolution will be considered at a directors' meeting and the date of that meeting
- c. what the member is said to have done or not done
- d. the nature of the resolution that has been proposed, and
- e. that the member may provide an explanation to the directors, and details of how to do so.

12.3 Before the directors pass any resolution under Clause 12.1, the member must be given a chance to explain or defend themselves by:

- a. sending the directors a written explanation before that directors' meeting, and/or
- b. speaking at the meeting.

12.4 After considering any explanation under Clause 12.3, the directors may:

- a) take no further action
- b) warn the member
- c) suspend the member's rights as a member for a period of no more than 12 months

- d) expel the member
- e) refer the decision to an unbiased, independent person on conditions that the directors consider appropriate (however, the person can only make a decision that the directors could have made under this Clause), or
- f) require the matter to be determined at a general meeting.

12.5 The directors cannot fine a member.

12.6 The secretary must give written notice to the member of the decision under Clause 12.4 as soon as possible.

12.7 Disciplinary procedures must be completed as soon as reasonably practical.

12.8 There will be no liability for any loss or injury suffered by the member as a result of any decision made in good faith under this Clause.

## **The Board:**

### **13 Board Eligibility**

13.1 A person must be an ordinary member to be eligible to be a member of the Board

13.2 Each member of the Board is a director of the Association for the purpose of the Act

### **14 The Board will be comprised of:**

14.1 President who will act as Chairperson

14.2 Australian Vice-president

14.3 New Zealand Vice-president

14.4 Treasurer

14.5 Secretary

14.6 Chairperson of the Association's Education Committee (ex-officio member)

14.7 Representative of the Association's Burn Registry of Australia and New Zealand and the Burn Quality Improvement Program (ex-officio member)

14.8 Chairperson of the Association's Prevention Committee (ex-officio member)

14.9 Chairperson of the Association's Research Committee (ex-officio member)

14.10 Representatives of the eight (8) Branches set out in Clause 48

14.11 Chairpersons of other Board appointed Committees, Groups or Working Parties may be invited to attend as official observers by the Board but are not eligible to vote nor considered as a director in this instance.

14.12 The Board may invite, from time to time in the interests of the Association, a person or persons to attend a Board meeting, or part thereof, but that person is not deemed to be a director or entitled to vote

### **15 Election and appointment to the Board**

15.1 A person is eligible for election as a director of the Association if they:

- a) are an ordinary member of the Association
  - b) are nominated by two Ordinary Members
  - c) give the Association their signed consent to act as a Director of the Association and
  - d) are not ineligible to be a Director under the Corporations Act or the ACNC Act
- 15.2 A member seeking election to the Board, pursuant to Clause 16.4, must lodge at the Office, not later than one month prior to the Annual General Meeting, notice of the member's intention to seek election. The notice need not be in any prescribed form but it must specify the full name and address of the person and be signed by him. The notice must also be signed by two Ordinary Members as proposer and seconder.
- 15.3 At the Annual General Meeting, for all vacant positions including Board Office Bearers, if only one member has been nominated that member will be declared elected. If more than one member has been nominated then a ballot will be held to elect one of the nominees. All members eligible to vote who are present whether in person or by proxy may vote by selecting one of the nominees. The nominee with the most votes will be declared elected
- 15.4 A member cannot hold two (2) Office Bearer positions. If a member already holds an Office Bearer position and the member seeks nomination and election for another Office Bearer position the member must resign from their current position if they are elected to the new position.
- 15.5 The Board may appoint a person as a director of the Association to fill a casual vacancy if they:
- a) are an ordinary member of the Association
  - b) give the Association their signed consent to act as a Director of the Association and
  - c) are not ineligible to be a Director under the Corporations Act or the ACNC Act
- 15.6 For a casual vacancy in a Branch the ordinary member appointed to fill the vacancy must be affiliated with the same Branch.

## 16 Term of office

- 16.1 Each director must retire at least once every three years. That is the term of office is three years.
- 16.2 An Office Bearer may be re-elected for a second term of office but then must retire from that office although the Office Bearer may be elected to another office of the Board subject to Clause 16.3
- 16.3 A Board member who has been a director for a continuous period of nine years or more may only be re-appointed or re-elected by a Special Resolution passed at a General meeting or the Annual General meeting.
- 16.4 At each Annual General Meeting five members of the Board elected pursuant to Clause 13 will retire and the members to retire in every year will be those who have been longest in office since their last election.
- 16.5 At each Annual General Meeting five Ordinary Members will be elected as members of the Board for a term of three years pursuant to Clause 15
- 16.6 A retiring Board member will be eligible for re-election subject to Clause 16.2 and Clause 16.3.
- 16.7 At each Annual General Meeting any Board member appointed by the Board to fill a casual vacancy must retire.

## 17 Powers of Directors

- 17.1 The directors are responsible for managing and directing the activities of the Association to achieve the objects set out in Clause 6.
- 17.2 The directors may use all the powers of the Association except for powers that, under the Corporations Act or this constitution, may only be used by members.
- 17.3 The directors must decide on the responsible financial management of the Association including:
- a) any suitable written delegations of power under Clause 18 and
  - b) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.
- 17.4 The directors cannot remove a director or auditor. Directors and auditors may only be removed by a members' resolution at a general meeting.

## **18 Delegation of directors' powers**

- 18.1 The directors may delegate any of their powers and functions to a committee, a director, an employee of the Association (such as the Association Secretary) or any other person, as they consider appropriate.
- 18.2 The delegation must be recorded in the Association's minute book.

## **19 Payments to directors**

- 19.1 The Association must not pay fees to a director for acting as a director.
- 19.2 The Association may:
- a) pay a director for work they do for the Association, other than as a director, if the amount is no more than a reasonable fee for the work done, or
  - b) reimburse a director for expenses properly incurred by the director in connection with the affairs of the Association.
  - c) Reimburse a director as part of the member support program
- 19.3 Any payment made under Clause 19.2 must be approved by the directors.
- 19.4 The Association may pay premiums for insurance indemnifying directors, as allowed for by law (including the Corporations Act) and this constitution.

## **20 Execution of documents**

The Association may execute a document without using a common seal if the document is signed by:

- 20.1 two directors of the Association, or
- 20.2 a director and the Association's Secretary.

## **21 Duties of directors**

The directors must comply with their duties as directors under legislation and common law (judge-made law), and with the duties described in governance standard 5 of the regulations made under the ACNC Act, which are:

- 21.1 to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a director of the Association
- 21.2 to act in good faith in the best interests of the Association and to further the charitable objects of the Association set out in Clause 6
- 21.3 not to misuse their position as a director



- 21.4 not to misuse information they gain in their role as a director
- 21.5 to disclose any perceived or actual material conflicts of interest in the manner set out in Clause 22
- 21.6 to ensure that the financial affairs of the Association are managed responsibly, and
- 21.7 not to allow the Association to operate while it is insolvent.

## **22 Conflicts of interest**

- 22.1 A director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of directors (or that is proposed in a circular resolution):
  - a) to the other directors, or
  - b) if all of the directors have the same conflict of interest, to the members at the next general meeting, or at an earlier time if reasonable to do so.
- 22.2 The disclosure of a conflict of interest by a director must be recorded in the minutes of the meeting.
- 22.3 Each director who has a material personal interest in a matter that is being considered at a meeting of directors (or that is proposed in a circular resolution) must not, except as provided under Clause 22.4:
  - a) be present at the meeting while the matter is being discussed, or
  - b) vote on the matter.
- 22.4 A director may still be present and vote if:
  - a) their interest arises because they are a member of the Association, and the other members have the same interest
  - b) their interest relates to an insurance contract that insures, or would insure, the director against liabilities that the director incurs as a director of the Association (see Clause 56)
  - c) their interest relates to a payment by the Association under Clause 55 (indemnity), or any contract relating to an indemnity that is allowed under the Corporations Act
  - d) the Australian Securities and Investments Commission (ASIC) makes an order allowing the director to vote on the matter, or
  - e) the directors who do not have a material personal interest in the matter pass a resolution that:
    - i. identifies the director, the nature and extent of the director's interest in the matter and how it relates to the affairs of the Association, and
    - ii. says that those directors are satisfied that the interest should not stop the director from voting or being present.

## **23 Cessation as a Board Member**

- 23.1 A director stops being a director if the director:
  - a) gives written notice of resignation as a director to the Association
  - b) dies
  - c) is removed as a director by a resolution of the members
  - d) ceases to be a member of the Association
  - e) is absent for three consecutive meetings of the Board without approval from the Board, or
  - f) becomes ineligible to be a director of the Association under the Corporations Act or the ACNC Act.

23.2 Directors (if not re-elected) cease to hold office at the close of the Annual General Meeting at which an election takes place and the new directors assume office from that time.

## 24. Board Office Bearers

24.1 The Office Bearers of the Association will be:

- a) President
- b) Vice-president (Australia)
- c) Vice-president (New Zealand)
- d) Treasurer
- e) Secretary

24.2 A member seeking election to one of the Board's Office Bearer's positions must have had at least one year's previous experience on the Board within the previous 10 years.

24.3 Duties of the Board Office Bearers

- a) President:
  - i. The President shall act as Chairperson of all meetings of the Board
  - ii. The President shall preside at, and conduct meetings of, the Board and any General meeting and sign the minutes of those meetings once they have been confirmed as accurate
  - iii. In case of the absence or inability to act of the President one of the Vice-Presidents, chosen by the directors, will discharge the duties of the President
  - iv. The President is an ex-officio member of all Committees
  - v. The President shall generally act to safeguard the reputation, unity and property of the Association
- b) Vice-Presidents:
  - i. There shall be two Vice-presidents, one from the Australian membership and one from the New Zealand membership
  - ii. In case of the absence or inability to act of the President one of the Vice-Presidents, chosen by the directors, will discharge the duties of the President
- c) Treasurer:
  - i. The Treasurer shall oversee the management of the finances of the Association including collecting and disbursing all funds of the Association. The Treasurer shall be the accounting officer for the purposes of the ACNC Act
  - ii. Maintain accurately and in good order such financial accounting records as are required by the ACNC Act
  - iii. Arrange for the accounts of the Association to be audited at least once a year in accordance with the ACNC Act
  - iv. At the Annual General Meeting of the Association and at meetings of the Board the Treasurer is to report in writing:
    - a. A detailed report of the financial position of the Association and any associated statements
    - b. A list of new members for Board approval
    - c. A list of resignations for Board approval
    - d. The number of financial members
- d) Secretary:
  - i. The Secretary shall liaise with the Secretariat to ensure efficient running of the Association
  - ii. The Secretary shall ensure that the registry of membership is maintained, that minutes are taken and distributed, that appropriate notices are issued and that relevant reports are completed and received
  - iii. The Secretary shall perform other duties as the Board may determine from time to

time

## 25 Secretariat

- 25.1 A secretary, from now on known as the **Association Secretary**, must be appointed by the directors and may be removed by the directors.
- 25.2 The secretary must reside in Australia.
- 25.3 The directors must decide the terms and conditions under which the secretary is appointed, including any remuneration.
- 25.4 The role of the secretary includes:
  - a) maintaining a register of the Association's members
  - b) maintaining a list of all Board Committees, Groups and Working Parties and their Chairpersons and membership
  - c) maintaining the minutes and other records of general meetings (including notices of meetings), directors' meetings and circular resolutions.
  - d) Perform such other duties as may be assigned by the Board from time to time

## 26 Board (Directors') Meetings

- 26.1 When the directors meet:
  - a) The directors may decide how often, where and when they meet.
  - b) The Board will hold at least two meetings in each year
- 26.2 Calling directors' meetings:
  - a) A director may call a directors' meeting by giving reasonable notice to all of the other directors.
  - b) At least 14 days' notice of a meeting of the Board must be given specifying the place time and date of the meeting and the general nature of items to be discussed. Shorter notice of a meeting may be given if 75% or more of the members of the Board agree.
  - c) A director may give notice in writing or by any other means of communication that has previously been agreed to by all of the directors.
- 26.3 Chairperson for directors' meetings:
  - a) The elected chairperson is entitled to chair directors' meetings.
  - b) The directors at a directors' meeting may choose a director to be the chairperson for that meeting if the elected chairperson is:
    - i. not present within 10 minutes after the starting time set for the meeting, or
    - ii. present but does not want to act as chairperson of the meeting.
- 26.4 Quorum at directors' meetings:
  - a) Unless the directors determine otherwise, the quorum for a directors' meeting is a majority (more than 50%) of directors.
  - b) A quorum must be present for the whole of the directors' meeting.
- 26.5 Using technology to hold directors' meetings:
  - a) The directors may hold their meetings by using any technology (such as video or teleconferencing) that is agreed to by all of the directors.
  - b) The directors' agreement may be a standing (ongoing) one.
  - c) A director may only withdraw their consent within a reasonable period before the meeting.
- 26.6 Passing directors' resolutions  
A directors' resolution must be passed by a majority of the votes cast by directors present, pursuant to Clause 26.4, and entitled to vote on the resolution.
- 26.7 Circular resolutions of directors

- a) The directors may pass a circular resolution without a directors' meeting being held.
- b) A circular resolution is passed if a majority (more than 50%) of the directors entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in Clause 26.7 c) or Clause 26.7 d).
- c) Each director may sign:
  - iii. a single document setting out the resolution and containing a statement that they agree to the resolution, or
  - iv. separate copies of that document, as long as the wording of the resolution is the same in each copy.
- d) The Association may send a circular resolution by email to the directors and the directors may agree to the resolution by sending a reply email to that effect, including the text of the resolution in their reply.

## **General meetings of members:**

### **27 General meetings called by directors**

- 27.1 The directors may call a general meeting
- 27.2 Only financial members can attend a general meeting
- 27.3 If members with at least 5% of the votes that may be cast at a general meeting make a written request to the Association for a general meeting to be held, the directors must:
  - a) within 21 days of the members' request, give all members notice of a general meeting, and
  - b) hold the general meeting within 2 months of the members' request.
- 27.4 The percentage of votes that members have (in Clause 27.3) is to be worked out as at midnight before the members request the meeting.
- 27.5 The members who make the request for a general meeting must:
  - a) state in the request any resolution to be proposed at the meeting
  - b) sign the request, and
  - c) give the request to the Association.
- 27.6 Separate copies of a document setting out the request may be signed by members if the wording of the request is the same in each copy.

### **28 General meetings called by members**

- 28.1 If the directors do not call the meeting within 21 days of being requested under Clause 27.3, 50% or more of the members who made the request may call and arrange to hold a general meeting.
- 28.2 To call and hold a meeting under Clause 28.1 the members must:
  - a) as far as possible, follow the procedures for general meetings set out in this constitution
  - b) call the meeting using the list of members on the Association's member register, which the Association must provide to the members making the request at no cost,
  - c) hold the general meeting within three months after the request was given to the Association.
- 28.3 The Association must pay the members who request the general meeting any reasonable expenses they incur because the directors did not call and hold the meeting.

### **29 Annual general meeting**

- 29.1 A general meeting, called the annual general meeting, must be held at least once in every calendar year.

- 29.2 Only financial members can attend the Annual General Meeting.
- 29.3 Even if these items are not set out in the notice of meeting, the business of an annual general meeting may include:
- a) a review of the Association's activities
  - b) a review of the Association's finances
  - c) any auditor's report
  - d) the election of directors including Office Bearers, and
  - e) the appointment and payment of auditors, if any.
- 29.4 Before or at the annual general meeting, the directors must give information to the members on the Association's activities and finances during the period since the last annual general meeting.
- 29.5 The chairperson of the annual general meeting must give members as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of the Association.

### **30 Notice of general meetings**

- 30.1 Notice of a general meeting must be given to:
- a) each member entitled to vote at the meeting
  - b) each director, and
  - c) the auditor.
- 30.2 Notice of a general meeting must be provided in writing at least 21 days before the meeting.
- 30.3 Subject to Clause 30.4, notice of a meeting may be provided less than 21 days before the meeting if:
- a) for an annual general meeting, all the members entitled to attend and vote at the annual general meeting agree beforehand, or
  - b) for any other general meeting, members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- 30.4 Notice of a meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:
- a) remove a director
  - b) appoint a director in order to replace a director who was removed, or
  - c) remove an auditor.
- 30.5 Notice of a general meeting must include:
- a) the place, date and time for the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this)
  - b) the general nature of the meeting's business
  - c) if applicable, that a special resolution is to be proposed and the words of the proposed resolution
  - d) a statement that members have the right to appoint proxies and that, if a member appoints a proxy:
    - i. the proxy form must be delivered to the Association at its registered address or the address (including an electronic address) specified in the notice of the meeting, and
    - ii. the proxy form must be delivered to the Association at least 48 hours before the meeting.
- 30.6 If a general meeting is adjourned (put off) for one month or more, the members must be given new notice of the resumed meeting.

### **31 Quorum at general meetings**

- 31.1 For a general meeting to be held, at least 10% members (a quorum) must be present (in person, by proxy or by representative) for the whole meeting. When determining whether a quorum is present, a person may only be counted once (even if that person is a representative or proxy of more than one member).
- 31.2 No business may be conducted at a general meeting if a quorum is not present.
- 31.3 If there is no quorum present within 30 minutes after the starting time stated in the notice of general meeting, the general meeting is adjourned to the date, time and place that the chairperson specifies. If the chairperson does not specify one or more of those things, the meeting is adjourned to:
- a) if the date is not specified – the same day in the next week
  - b) if the time is not specified – the same time, and
  - c) if the place is not specified – the same place.
- 31.4 If no quorum is present at the resumed meeting within 30 minutes after the starting time set for that meeting, the meeting is cancelled.

### **32 Auditor's right to attend meetings**

- 32.1 The auditor is entitled to attend any general meeting and to be heard by the members on any part of the business of the meeting that concerns the auditor.
- 32.2 The Association must give the auditor any communications relating to the general meeting that a member of the Association is entitled to receive.

### **33 Using technology to hold meetings**

- 33.1 The Association may hold a general meeting at two or more venues using any technology that gives the members as a whole a reasonable opportunity to participate, including to hear and be heard.
- 33.2 Anyone using this technology is taken to be present in person at the meeting.

### **34 Chairperson for general meetings**

- 34.1 The elected chairperson (the President) is entitled to chair general meetings.
- 34.2 The members present and entitled to vote at a general meeting may choose a director or member to be the chairperson for that meeting if:
- a) there is no elected chairperson, or
  - b) the elected chairperson is not present within 30 minutes after the starting time set for the meeting, or
  - c) the elected chairperson is present but says they do not wish to act as chairperson of the meeting.

### **35 Role of the chairperson**

- 35.1 The chairperson is responsible for the conduct of the general meeting, and for this purpose must give members a reasonable opportunity to make comments and ask questions (including to the auditor).
- 35.2 The chairperson does not have a casting vote.

### **36 Adjournment of meetings**

- 36.1 If a quorum is present, a general meeting must be adjourned if a majority of members present direct the chairperson to adjourn it.
- 36.2 Only unfinished business may be dealt with at a meeting resumed after an adjournment.

## **Members' resolutions and statements:**

### **37 Members' resolutions and statements**

- 37.1 Members with at least 5% of the votes that may be cast on a resolution may give:
- a) written notice to the Association of a resolution they propose to move at a general meeting (members' resolution), and/or
  - b) a written request to the Association that the Association give all of its members a statement about a proposed resolution or any other matter that may properly be considered at a general meeting (members' statement).
- 37.2 A notice of a members' resolution must set out the wording of the proposed resolution and be signed by the members proposing the resolution.
- 37.3 A request to distribute a members' statement must set out the statement to be distributed and be signed by the members making the request.
- 37.4 Separate copies of a document setting out the notice or request may be signed by members if the wording is the same in each copy.
- 37.5 The percentage of votes that members have (as described in Clause 37.1) is to be worked out as at midnight before the request or notice is given to the Association.
- 37.6 If the Association has been given notice of a members' resolution under Clause 37.1.a), the resolution must be considered at the next general meeting held more than two months after the notice is given.
- 37.7 This Clause does not limit any other right that a member has to propose a resolution at a general meeting.

### **38 The Association must give notice of proposed resolution or distribute statement**

- 38.1 If the Association has been given a notice or request under Clause 37:
- a) in time to send the notice of proposed members' resolution or a copy of the members' statement to members with a notice of meeting, it must do so at the Association's cost, or
  - b) too late to send the notice of proposed members' resolution or a copy of the members' statement to members with a notice of meeting, then the members who proposed the resolution or made the request must pay the expenses reasonably incurred by the Association in giving members notice of the proposed members' resolution or a copy of the members' statement. However, at a general meeting, the members may pass a resolution that the Association will pay these expenses.
- 38.2 The Association does not need to send the notice of proposed members' resolution or a copy of the members' statement to members if:
- a) it is more than 1 000 words long
  - b) the directors consider it may be defamatory
  - c) Clause 38.1.b. applies, and the members who proposed the resolution or made the request have not paid the Association enough money to cover the cost of sending the notice of the proposed members' resolution or a copy of the members' statement to members, or
  - d) in the case of a proposed members' resolution, the resolution does not relate to a matter that may be properly considered at a general meeting or is otherwise not a valid resolution able to be put to the members.

### **39 Circular resolutions of members**

- 39.1 Subject to Clause 39.3, the directors may put a resolution to the members to pass a resolution without a general meeting being held (a circular resolution).
- 39.2 The directors must notify the auditor (if any) as soon as possible that a circular resolution has or will be put to members, and set out the wording of the resolution.

- 39.3 Circular resolutions cannot be used:
- a) for a resolution to remove an auditor, appoint a director or remove a director
  - b) for passing a special resolution, or
  - c) where the Corporations Act or this constitution requires a meeting to be held.
- 39.4 A circular resolution is passed if a majority (more than 50%) of the members entitled to vote on the resolution sign or agree to the circular resolution, in the manner set out in Clause 39.5 or Clause 39.6
- 39.5 Members may sign:
- a) a single document setting out the circular resolution and containing a statement that they agree to the resolution, or
  - b) separate copies of that document, as long as the wording is the same in each copy.
- 39.6 The Association may send a circular resolution by email to members and members may agree by sending a reply email to that effect, including the text of the resolution in their reply.

## **Voting at general meetings**

### **40 How many votes a member has**

Each member has one vote

### **41 Challenge to member's right to vote**

- 41.1 A member or the chairperson may only challenge a person's right to vote at a general meeting at that meeting.
- 41.2 If a challenge is made under Clause 41.1, the chairperson must decide whether or not the person may vote. The chairperson's decision is final.

### **42 How voting is carried out**

- 42.1 Voting must be conducted and decided by:
- a) a show of hands
  - b) a vote in writing, or
  - c) another method chosen by the chairperson that is fair and reasonable in the circumstances.
- 42.2 Before a vote is taken, the chairperson must state whether any proxy votes have been received and, if so, how the proxy votes will be cast.
- 42.3 On a show of hands, the chairperson's decision is conclusive evidence of the result of the vote.
- 42.4 The chairperson and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.

### **43 When and how a vote in writing must be held**

- 43.1 A vote in writing may be demanded on any resolution instead of or after a vote by a show of hands by:
- a) at least five members present
  - b) members present with at least 5% of the votes that may be passed on the resolution on the vote in writing (worked out as at the midnight before the vote in writing is demanded), or
  - c) the chairperson.
- 43.2 A vote in writing must be taken when and how the chairperson directs, unless Clause 43.3 applies.
- 43.2 A vote in writing must be held immediately if it is demanded under Clause 43.1:
- a) for the election of a chairperson for the meeting under Clause 34.2, or
  - b) to decide whether to adjourn the meeting.
- 43.3 A demand for a vote in writing may be withdrawn.



#### **44 Appointment of proxy**

- 44.1 A member may appoint another member to be a proxy to attend and vote at a general meeting on their behalf.
- 44.2 A proxy appointed to attend and vote for a member has the same rights as the member to:
- a) speak at the meeting
  - b) vote in a vote in writing (but only to the extent allowed by the appointment), and
  - c) join in to demand a vote in writing under Clause 43.1.
- 44.3 An appointment of proxy (the proxy form) must be signed by the member appointing the proxy and must contain:
- a) the member's name and address
  - b) the Association's name
  - c) the proxy's name or the name of the office held by the proxy, and
  - d) the meeting(s) at which the appointment may be used.
- 44.4 A proxy appointment may be standing (ongoing).
- 44.5 Proxy forms must be received by the Association at the address stated in the notice under Clause 30.5.d) or at the Association's registered address at least 48 hours before a meeting.
- 44.6 A proxy does not have the authority to speak and vote for a member at a meeting while the member is at the meeting.
- 44.7 Unless the Association receives written notice before the start or resumption of a general meeting at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing member:
- a) dies
  - b) is mentally incapacitated
  - c) revokes the proxy's appointment
- 44.8 A proxy appointment may specify the way the proxy must vote on a particular resolution.

#### **45 Voting by proxy**

- 45.1 A proxy is not entitled to vote on a show of hands (but this does not prevent a member appointed as a proxy from voting as a member on a show of hands).
- 45.2 When a vote in writing is held, a proxy:
- a) does not need to vote, unless the proxy appointment specifies the way they must vote
  - b) if the way they must vote is specified on the proxy form, must vote that way, and
  - c) if the proxy is also a member or holds more than one proxy, may cast the votes held in different ways.

#### **Minutes and records:**

#### **46 Minutes and records**

- 46.1 The Association must, within one month, make and keep the following records:
- a) minutes of proceedings and resolutions of general meetings
  - b) minutes of circular resolutions of members
  - c) a copy of a notice of each general meeting, and
  - d) a copy of a members' statement distributed to members under Clause 38.
- 46.2 The Association must, within one month, make and keep the following records:
- a) minutes of proceedings and resolutions of directors' meetings (including meetings of any committees), and
  - b) minutes of circular resolutions of directors.

- 46.3 To allow members to inspect the Association's records:
- a) the Association must give a member access to the records set out in Clause 46.1, and
  - b) the directors may authorise a member to inspect other records of the Association, including records referred to in Clause 46.2 and Clause 47.1.
- 46.4 The directors must ensure that minutes of a general meeting or a directors' meeting are signed within a reasonable time after the meeting by:
- a) the chairperson of the meeting, or
  - b) the chairperson of the next meeting.
- 46.5 The directors must ensure that minutes of the passing of a circular resolution (of members or directors) are signed by a director within a reasonable time after the resolution is passed.

#### **47 Financial and related records**

- 47.1 The Association must make and keep written financial records that:
- a) correctly record and explain its transactions and financial position and performance, and
  - b) enable true and fair financial statements to be prepared and to be audited.
- 47.2 The Association must also keep written records that correctly record its operations.
- 47.3 The Association must retain its records for at least 7 years.
- 47.4 The directors must take reasonable steps to ensure that the Association's records are kept safe.

#### **Branches:**

#### **48. Branches of ANZBA:**

- 48.1 For the purposes of this Constitution the Association recognises the following groups of members of the Association from Australia and New Zealand:
- a. The New Zealand Branch;
  - b. Victorian Branch;
  - c. New South Wales Branch (includes Australian Capital Territory)
  - d. Queensland Branch;
  - e. Western Australian Branch;
  - f. South Australian Branch;
  - g. Tasmanian Branch;
  - h. Northern Territory Branch;
- 48.2 Eligible members of each group, pursuant to Clause 48.1, may elect a Branch representative to the Board at the Annual General Meeting pursuant to Clause 14.
- 48.3 Election and appointment to the Board will be pursuant to Clause 15
- 48.4 The term of office on the Board will be pursuant to Clause 16
- 48.5 The Branch representative will provide, for the Annual General Meeting, an annual report on the activities of the members of related Branch.

#### **By-laws**

#### **27 By-laws**

- 49.1 The directors may pass a resolution to make by-laws to give effect to this constitution.
- 49.2 Members and directors must comply with by-laws as if they were part of this constitution.

## **Notice:**

### **50 What is notice**

50.1 Anything written to or from the Association under any Clause in this constitution is written notice and is subject to Clauses 51 to 53, unless specified otherwise.

50.2 Clauses 51 to 53 do not apply to a notice of proxy under Clause 44.5.

### **51 Notice to the Association**

Written notice or any communication under this constitution may be given to the Association, the directors or the secretary by:

51.1 delivering it to the Association's registered office

51.2 posting it to the Association's registered office or to another address chosen by the Association for notice to be provided

51.3 sending it to an email address or other electronic address notified by the Association to the members as the Association's email address or other electronic address, or

51.4 sending it to the fax number notified by the Association to the members as the Association's fax number.

### **52 Notice to members**

52.1 Written notice or any communication under this constitution may be given to a member:

- a. in person
- b. by posting it to, or leaving it at the address of the member in the register of members or an alternative address (if any) nominated by the member for service of notices
- c. sending it to the email or other electronic address nominated by the member as an alternative address for service of notices (if any)
- d. sending it to the fax number nominated by the member as an alternative address for service of notices (if any), or
- e. if agreed to by the member, by notifying the member at an email or other electronic address nominated by the member, that the notice is available at a specified place or address (including an electronic address).

52.2 If the Association does not have an address for the member, the Association is not required to give notice in person.

### **53 When notice is taken to be given**

A notice:

53.1 delivered in person, or left at a the recipient's address, is taken to be given on the day it is delivered

53.1 sent by post, is taken to be given on the third day after it is posted with the correct payment of postage costs

53.3 sent by email, fax or other electronic method, is taken to be given on the business day after it is sent, and

53.4 given under Clause 52.1.e) is taken to be given on the business day after the notification that the notice is available is sent.

## **Financial year:**

### **54 Association's financial year**

The Association's financial year is from 1 July to June 30, unless the directors pass a resolution to change the financial year.

### **Indemnity, insurance and access:**

#### **55 Indemnity**

- 55.1 The Association indemnifies each officer of the Association out of the assets of the Association, to the relevant extent, against all losses and liabilities (including costs, expenses and charges) incurred by that person as an officer of the Association.
- 55.2 In this Clause, 'officer' means a director or secretary and includes a director or secretary after they have ceased to hold that office.
- 55.3 In this Clause, 'to the relevant extent' means:
- a) to the extent that the Association is not precluded by law (including the Corporations Act) from doing so, and
  - b) for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including an insurer under an insurance policy).
- 55.4 The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer of the Association.

#### **56 Insurance**

To the extent permitted by law (including the Corporations Act), and if the directors consider it appropriate, the Association may pay or agree to pay a premium for a contract insuring a person who is or has been an officer of the Association against any liability incurred by the person as an officer of the Association.

#### **57 Directors' access to documents**

- 57.1 A director has a right of access to the financial records of the Association at all reasonable times.
- 57.2 If the directors agree, the Association must give a director or former director access to:
- a. certain documents, including documents provided for or available to the directors, and
  - b. any other documents referred to in those documents.

### **Winding up:**

#### **58 Surplus assets not to be distributed to members**

If the Association is wound up, any surplus assets must not be distributed to a member or a former member of the Association, unless that member or former member is a charity described in Clause 58.1.

#### **59 Distribution of surplus assets**

- 59.1 Subject to the Corporations Act and any other applicable Act, and any court order, any surplus assets that remain after the Association is wound up must be distributed to one or more charities:
- a) with charitable purpose(s) similar to, or inclusive of, the objects in Clause 6, and
  - b) which also prohibit the distribution of any surplus assets to its members to at least the same extent as the Association.
- 59.2 The decision as to the charity or charities to be given the surplus assets must be made by a special resolution of members at or before the time of winding up. If the members do not make this decision, the Association may apply to the Supreme Court to make this decision.

## Definitions and interpretation:

### 60 Definitions

In this constitution:

**ACNC Act** means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth)

**Association** means the Association referred to in Clause 1.

**Corporations Act** means the *Corporations Act 2001* (Cth)

**Object(s)** means the aims or objectives of the Association

**elected chairperson** means a person elected by the directors to be the Association's chairperson under Clause 14.1

**general meeting** means a meeting of members and includes the annual general meeting, under Clause 27 and Clause 29

**member present** means, in connection with a general meeting, a member present in person, or by proxy at the venue or venues for the meeting

**registered charity** means a charity that is registered under the **ACNC Act**

**special resolution** means a resolution:

- i. of which notice has been given under Clause 30.5.c and
- ii. that has been passed by at least 75% of the votes cast by **members present** and entitled to vote on the resolution, and

**surplus assets** means any assets of the **Association** that remain after paying all debts and other liabilities of the **Association**, including the costs of winding up.

### 61 Reading this constitution with the Corporations Act

61.1 The replaceable rules set out in the Corporations Act do not apply to the Association.

61.2 While the Association is a registered charity, the ACNC Act and the Corporations Act override any Clauses in this constitution which are inconsistent with those Acts.

61.3 If the Association is not a registered charity (even if it remains a charity), the Corporations Act overrides any Clause in this constitution that is inconsistent with that Act.

61.4 A word or expression that is defined in the Corporations Act, or used in that Act and covering the same subject, has the same meaning as in this constitution.

### 62 Interpretation

In this constitution:

62.1 the words 'including', 'for example', or similar expressions mean that there may be more inclusions or examples than those mentioned after that expression, and

61.2 reference to an Act includes every amendment, re-enactment, or replacement of that Act and any subordinate legislation made under that Act (such as regulations).

16<sup>th</sup> October 2019