

WISPAU CONSTITUTION

Wireless Internet Service Provider Association of Australia Incorporated

Under the Associations Incorporation Act 2009 (NSW)

ABN 12 503 204 289

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Annexure 1 to the notice of the 2026 Annual General Meeting



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Part 1 Preliminary

1 Name

The name of the association is Wireless Internet Service Provider Association of Australia Incorporated (WISPAU).

2 Definitions

In this constitution:

the Act means the *Associations Incorporation Act 2009* (NSW).

appointed committee member means a committee member appointed under clause 22(6).

committee member means an office-bearer or ordinary committee member.

constitution means this constitution.

direct vote means a vote cast under clause 49.

electronic means includes email, video or audio conferencing, an online voting platform or any other electronic method of communication or voting determined by the committee.

exercise a function includes perform a duty.

function includes a power, authority or duty.

instrument of proxy means a document (including an electronic document) appointing a proxy under clause 47.

member means a member of the association of any class, and, for an Organisation Member, includes the member's representative acting on its behalf where the context requires.

member representative means the individual nominated by an Organisation Member under clause 9.

office-bearer means a committee member who is elected to an office referred to in clause 22(1)(a).

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

Organisation Member means a member that is a body corporate or other entity that is not an individual.

proxy means a person appointed under clause 47 to attend and vote at a general meeting on behalf of a Voting Member.

public officer means the public officer of the association appointed under clause 29.

register of members means the register of members maintained under clause 12.

the Regulation means the *Associations Incorporation Regulation 2022* (NSW).

secretary of the association, means (a) the person holding office under this constitution as secretary, or (b) if no person holds that office — the public officer of the association.

special general meeting of the association, means a general meeting of the association other than an annual general meeting.

special resolution has the meaning given by the Act, section 39.

subcommittee means a subcommittee established under clause 31.

Voting Member means a member of a class referred to in clause 7(2).

WISP means a person who carries on business in Australia as a provider of internet or broadband services delivered wholly or partly over fixed wireless, satellite or other wireless networks, including as a carrier or carriage service provider within the meaning of the *Telecommunications Act 1997* (Cth).

3 Interpretation

(1) The *Interpretation Act 1987* (NSW) applies to this constitution as if it were an instrument made under the Act.

(2) Headings and notes in this constitution are for guidance only and do not affect its interpretation.

(3) A reference to a person includes a body corporate, partnership, trust, unincorporated body or other entity; a reference to writing includes email and other electronic communication; and the words "include" and "including" are not words of limitation.

(4) If this constitution is inconsistent with the Act or the Regulation, the Act or the Regulation prevails to the extent of the inconsistency.

Note: The Act, Part 4 deals with various matters relating to the management of associations.

Part 2 Objects and non-profit status

4 Objects

The objects of the association are to promote and support wireless internet service providers in Australia by:

(a) providing support and assistance to members in matters relevant to the provision of wireless internet services,

(b) improving and extending relationships with vendors of services and products related to the wireless internet services provided by members,

(c) advocating on matters of relevance to members and the wireless internet service provider industry, including to government, regulators and policy makers,

(d) establishing links with organisations of similar interests to improve the delivery of wireless internet services in Australia,

(e) educating on the importance of wireless internet service providers in delivering broadband services and improving connectivity for people and communities in Australia, and

(f) doing anything else that is incidental or conducive to achieving the objects in paragraphs (a)–(e).

5 Powers

Solely for the purpose of furthering its objects, the association has the legal capacity and powers conferred by the Act, section 19.

6 Non-profit status and application of income

(1) The income and property of the association, from wherever derived, must be applied solely towards the promotion of the objects of the association.

(2) Subject to the Act, the Regulation and subclause (3), the association must not conduct its affairs in a way that provides a pecuniary gain for a member, and no part of the income or property of the association may be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise, to a member.

(3) Nothing in this clause prevents any of the following payments, if made in good faith and on terms no more favourable than reasonable arm's-length terms:

(a) remuneration to an employee, member or other person for services actually rendered, or goods supplied, to the association,

(b) reimbursement of out-of-pocket expenses properly incurred by a committee member or other member on the association's business, if approved by the committee,

(c) payment to a committee member (or an entity in which a committee member has an interest) for services rendered to the association, other than for serving as a committee member, if the payment is approved by the committee in accordance with clause 26,

(d) interest, at a rate not exceeding a reasonable commercial rate, on money lent to the association by a member for the objects of the association, under a written loan agreement.

(4) Except as permitted by subclause (3)(b) and (c), a committee member is not entitled to any remuneration, fee or other financial benefit from the association for acting as a committee member.

(5) Particulars of every payment made under subclause (3)(c) during a financial year must be disclosed to members at the next annual general meeting.

Note: See the Act, sections 5 and 40. Under section 5(2)(b), an association established to protect a trade, business or industry in which its members are engaged does not provide pecuniary gain for its members merely for that reason, provided the association does not itself engage in that trade or business.

Part 3 Members

7 Classes of membership

(1) The association has the following classes of membership: (a) Voting Members, and (b) Non-voting Members.

(2) The Voting Member classes are:

(a) WISP Members — an individual or Organisation Member that is a WISP and that:

(i) represents to the association in its application for membership that it supports the objects of the association, and

(ii) satisfies any further eligibility criteria determined by the committee from time to time.

(b) Honorary Life Members — an individual who has rendered distinguished service to the association or the wireless internet service provider industry and on whom honorary life

membership is conferred, on the recommendation of the committee, by a resolution passed by at least two-thirds of the votes cast by Voting Members at a general meeting. Any Voting Member may suggest a person to the committee for consideration. No more than one (1) new Honorary Life Membership may be conferred in a calendar year. An Honorary Life Member is not required to pay an entrance fee or annual subscription fee.

(3) The Non-voting Member classes are:

(a) Associate Members — an individual or Organisation Member that is not a WISP or a Vendor Member and that has an interest in progressing the objects of the association.

(b) Vendor Members — an individual or Organisation Member that supplies, or is associated with an entity that supplies, goods or services to WISPs and that has an interest in progressing the objects of the association.

(4) The committee may provide for additional categories of membership within a class, with such eligibility criteria and fees as the committee determines, but no category may confer on a member rights greater than those conferred on the member's class under clause 10.

(5) If a member ceases to satisfy the eligibility criteria for its class, the committee may, after giving the member written notice and an opportunity to respond, transfer the member to the class for which it is eligible.

8 Existing members

(1) A person is a member of the association if:

(a) the person was a member of the association immediately before this constitution took effect, or

(b) the person's application for membership is approved under clause 11 and the person's name is entered in the register of members.

(2) A person who was a member immediately before this constitution took effect continues as a member of the class determined by the committee, having regard to the person's class under the previous constitution.

9 Organisation Members and member representatives

(1) An Organisation Member must, by written notice to the secretary, nominate one individual who is at least 18 years of age and who is a director, partner, officer or employee of the Organisation Member to be its member representative, and may by further notice (including by updating its details in any online member portal designated by the secretary) revoke the nomination and nominate another individual.

(2) An Organisation Member may have only one member representative at any one time, and the secretary must keep a record of member representatives in the register of members.

(3) The member representative may exercise all of the rights of the Organisation Member under this constitution, including attending, speaking and voting at general meetings on its behalf and appointing a proxy under clause 47.

(4) An Organisation Member has one vote only, regardless of the number of its officers, employees or representatives present at a meeting.

(5) A member representative of an Organisation Member that is a Voting Member is eligible to be nominated and elected as a committee member as if the member representative were a Voting Member.

(6) No more than one individual associated with the same Organisation Member (or related bodies corporate) may hold office as a committee member at the same time.

10 Rights of members

(1) Each Voting Member has the right to:

(a) receive notice of, attend, speak at and vote at any general meeting of the association,

(b) nominate, and be nominated, for election as a committee member, and

(c) vote in any election of committee members, and

(d) appoint a proxy to attend and vote at a general meeting on its behalf in accordance with clause 47.

(2) Each Non-voting Member has the right to receive notice of, attend and, with the consent of the member presiding, speak at any general meeting of the association, but:

(a) is not entitled to vote, or to appoint a proxy, at a general meeting, and

(b) is not entitled to nominate, be nominated or vote for election as a committee member.

(3) The association may offer members additional benefits of membership, including access to services provided by the association, which may differ between classes and categories of membership and according to the fee paid or other criteria determined by the committee.

(4) The rights attached to a class of membership may only be varied or cancelled:

(a) by special resolution passed at a meeting of the members of that class, or

(b) with the written consent of members who are entitled to at least 75% of the votes that may be cast in respect of membership of that class.

(5) The provisions of this constitution relating to general meetings apply, with necessary changes, to separate class meetings as if they were general meetings.

11 Membership applications

(1) An application by a person to be a member of the association must be:

(a) made in writing (including by electronic means), and

(b) in the form determined by the committee, stating the class of membership applied for, and

(c) lodged with the secretary, and

(d) include the applicant's agreement, if admitted, to be bound by this constitution, the policies made under clause 59 and any code of conduct adopted by the committee.

(2) The secretary must refer an application to the committee as soon as practicable after receiving it.

(3) The committee must approve or reject the application and may approve it subject to conditions and is not required to give reasons for rejecting an application. Before deciding, the committee may require the applicant to provide further information.

(4) The committee may delegate the consideration and approval of membership applications to a committee member or subcommittee, subject to any directions of the committee.

(5) As soon as practicable after the committee has decided the application, the secretary must:

(a) give the applicant written notice of the decision, and

(b) if the application is approved — inform the applicant that the applicant is required to pay the entrance fee (if any) and the annual subscription fee payable under clause 13 within 28 days of the day the applicant receives the notice.

(6) The secretary must enter the applicant's name in the register of members as soon as practicable after the applicant pays the fees referred to in subclause (5)(b).

(7) The applicant becomes a member once the applicant's name is entered in the register of members.

(8) If the applicant does not pay the fees within the time referred to in subclause (5)(b), the application lapses.

12 Register of members

(1) The secretary must establish and maintain a register of members of the association.

(2) The register:

(a) may be in written or electronic form, and

(b) must include, for each member:

(i) the member's full name and class of membership, and

(ii) for an Organisation Member — its ABN (if any) and the name of its member representative, and

(iii) a residential, postal or email address, and

(iv) the date on which the person became a member, and

(v) if the person ceases to be a member — the date on which the person ceased to be a member, and

(c) must be kept in New South Wales at the association's main premises or, if the association has no premises, at the association's official address, and

(d) must be available for inspection, free of charge, by members at a reasonable time, and

(e) if kept in electronic form — must be able to be converted to hard copy.

(3) If the register is kept in electronic form, subclause (2)(c) and (d) apply as if a reference to the register were a reference to a current hard copy of the register.

(4) A member may obtain a copy of the register, or a part of it, on payment of a fee of not more than $1 per page, as determined by the committee.

(5) Information about a member, other than the member's name, must not be made available for inspection if the member requests that it not be made available.

(6) A member must not use information obtained from the register to contact or send material to another member unless the information is used to send a newsletter, a notice of a meeting or event of the association or other material relating to the association, or it is necessary to comply with the Act or the Regulation.

(7) A member must promptly notify the secretary of any change to its name, contact details or (for an Organisation Member) member representative.

(8) The association must handle personal information in the register in accordance with any privacy policy adopted by the committee.

(9) Subject to the Act, any dispute about an entry in the register of members is to be decided by the committee.

13 Fees and subscriptions

(1) The entrance fee (if any) and the annual subscription fee for each class and category of membership are the amounts determined by the committee from time to time.

(2) A member must pay the annual subscription fee:

(a) if the member is admitted during a financial year — in accordance with clause 11(5)(b), and thereafter before the first day of each subsequent financial year, or

(b) otherwise — before the first day of each financial year, or by such later date as the committee determines.

(3) The committee may determine that the fee payable by a member admitted part-way through a financial year is to be reduced pro rata, and may waive or reduce a fee in individual cases.

(4) If a fee remains unpaid 28 days after it falls due, the secretary must give the member written notice of that fact. While any fee is overdue, the member's rights of membership (including the right to vote) are suspended.

(5) If the fee remains unpaid 14 days after the notice under subclause (4) is given, the committee may cancel the member's membership, and the secretary must notify the former member and record the cancellation in the register of members.

(6) The committee may, in its discretion and on such terms as it determines, restore the membership of a person whose membership was cancelled under subclause (5) on payment of the amount owing.

(7) The committee must give members at least 1 month's notice of any increase in the entrance fee or annual subscription fee for their class or category of membership.

14 Members' liabilities

The liability of a member to contribute towards the payment of the debts and liabilities of the association, or the costs, charges and expenses of winding up the association, is limited to the amount, if any, unpaid by the member in relation to fees under clause 13.

15 Disciplinary action against members

(1) A person may make a complaint to the committee that a member has:

(a) failed to comply with a provision of this constitution or a policy made under clause 59, or

(b) wilfully acted in a way prejudicial to the interests of the association, or

(c) failed to comply with a code of conduct adopted by the committee, or brought the association into disrepute.

(2) The committee may refuse to deal with a complaint if it considers the complaint is trivial or vexatious.

(3) If the committee decides to deal with the complaint, the committee must:

(a) serve notice of the complaint on the member, and

(b) give the member at least 14 days from the day the notice is served within which to make submissions to the committee about the complaint, and

(c) consider any submissions made by the member.

(4) The committee may, by resolution, reprimand the member, expel the member from the association or suspend the member's membership for a specified period if, after considering the complaint, the committee is satisfied that the facts alleged have been proved and the reprimand, expulsion or suspension is warranted. The committee may not impose a fine on a member.

(5) If the committee reprimands, expels or suspends the member, the secretary must, within 7 days, give the member written notice of the action taken, the reasons given by the committee and the member's right of appeal under clause 16.

(6) The reprimand, expulsion or suspension does not take effect until the later of the day the period for appeal expires or, if the member appeals within that period, the day the association confirms the resolution under clause 16.

(7) A committee member who is the subject of, or who made, the complaint must not take part in the committee's consideration or decision on it.

(8) The committee must apply procedural fairness in dealing with a complaint, including by informing the member of the grounds of the complaint and giving the member an opportunity to be heard.

(9) The committee may appoint a disciplinary subcommittee to deal with a complaint under this clause on its behalf. Its members may be committee members, other members or independent persons, but must not be biased for or against the member. A reference in subclauses (3) to (6) to the committee includes the disciplinary subcommittee.

16 Right of appeal against disciplinary action

(1) A member may appeal against a resolution of the committee or a disciplinary subcommittee under clause 15 by lodging a notice of appeal with the secretary within 7 days of being served notice of the resolution.

(2) The notice of appeal may include a statement of the grounds on which the member intends to rely.

(3) The secretary must notify the committee that a notice of appeal has been received, and the committee must call a general meeting to be held within 28 days of the day the notice was received.

(4) At the general meeting:

(a) no business other than the appeal is to be transacted, and

(b) the member and the committee must each be given an opportunity to state their case orally, in writing or both, and

(c) the Voting Members present must vote by secret ballot (which may be conducted by electronic means) on whether the resolution should be confirmed or revoked. Votes may not be cast by proxy or by direct vote.

(5) The appeal is decided by a simple majority of votes cast.

17 Grievance procedure and resolution of internal disputes

(1) This clause applies to a dispute between members (in their capacity as members), or between one or more members and the association.

(2) The parties must first meet (in person or by electronic means) and attempt in good faith to resolve the dispute within 14 days after one party gives the other written notice of the dispute.

(3) If the dispute is not resolved under subclause (2), any party may refer it to mediation by:

(a) a mediator agreed by the parties, or

(b) a Community Justice Centre within the meaning of the *Community Justice Centres Act 1983* (NSW), or

(c) if the parties cannot agree within 14 days — a mediator nominated by the president of the Resolution Institute (or a similar independent body chosen by the committee).

(4) Mediation may be conducted by electronic means. Each party bears its own costs, and the costs of the mediator are shared equally unless the parties agree otherwise.

(5) If the dispute is not resolved by mediation within 3 months of referral, the parties may agree to refer it to arbitration under the *Commercial Arbitration Act 2010* (NSW), or may pursue any other remedy available at law.

(6) A member of the committee who is a party to the dispute must not take part in any committee decision about it.

18 Membership entitlements not transferable

A right, privilege or obligation that a person has because the person is a member of the association cannot be transferred to another person, and terminates when the person ceases to be a member.

19 Member resignation

(1) A member may resign by giving the secretary written notice of at least 1 month, or another period determined by the committee, of the member's intention to resign.

(2) The member ceases to be a member on the expiry of the notice period. Fees already paid are not refundable unless the committee decides otherwise.

20 Cessation of membership

(1) A person ceases to be a member of the association if the person:

(a) dies, or, for an Organisation Member, is wound up, deregistered or otherwise ceases to exist, or

(b) resigns from being a member, or

(c) is expelled from the association, or

(d) has its membership cancelled for non-payment of fees under clause 13(5), or

(e) ceases to satisfy the eligibility criteria for any class of membership (unless transferred to another class under clause 7(5) or the committee resolves otherwise), or

(f) for an Organisation Member — suffers an insolvency event and the committee resolves that its membership ends, or

(g) cannot be found by the committee after reasonable enquiry.

(2) Any money owed by a person to the association when the person ceases to be a member remains owing and becomes immediately payable. Fees paid are not refundable unless the committee decides otherwise.

Part 4 Committee

Division 1 Constitution of committee

21 Functions of committee

Subject to the Act, the Regulation, this constitution and 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 the functions that may be exercised by the association, other than functions required to be exercised by the association in general meeting, and

(c) has power to do all things that are necessary or convenient to be done for the proper management of the affairs of the association.

22 Composition of committee

(1) The committee is to consist of not fewer than 5 and not more than 9 elected members (plus any appointed committee members), elected in accordance with clause 23, consisting of:

(a) the following office-bearers: (i) the president, (ii) the vice-president, (iii) the secretary, and (iv) the treasurer, and

(b) not fewer than 1 and not more than 5 ordinary committee members, and

(c) up to 2 additional committee members appointed by the committee under subclause (6).

(2) A person is eligible to be a committee member only if the person is a Voting Member who is an individual, or the member representative of an Organisation Member that is a Voting Member, and is at least 18 years of age.

(3) At least 3 committee members must ordinarily reside in Australia.

(4) A person is not eligible to be elected or appointed as a committee member if the person is an employee of the association, is an insolvent under administration, or (for a member representative) the Organisation Member has overdue fees.

(5) The election or appointment of a committee member has no effect until the person gives the secretary a signed consent to act and any confidentiality undertaking, conflict of interest declaration and code of conduct required by the committee.

(6) The committee may appoint up to 2 individuals who have skills, experience or perspectives the committee considers desirable (for example legal, financial, regulatory or consumer expertise) as appointed committee members. An appointed committee member holds office until the close of the next annual general meeting, may be reappointed, need not be a Voting Member, and may not hold an office-bearer position.

(7) An office-bearer may hold up to 2 offices, other than both the offices of president and vice-president or both the offices of president and treasurer.

(8) It is the aim of the association that the committee includes people from different States and Territories, people associated with WISPs of different sizes, and people with a range of governance, technical, financial and regulatory skills. Members nominating and voting for candidates, and the committee in making appointments under subclause (6) and clause 25(5), should have regard to that aim. Failure to achieve it does not affect the validity of any election or appointment.

Note: The Act, section 28 contains requirements relating to the membership and composition of the committee.

23 Election of committee members

(1) At least 28 days before each annual general meeting, the secretary must give Voting Members notice of the positions to be filled and call for nominations.

(2) Any Voting Member eligible under clause 22(2) may be nominated as a candidate for election as an office-bearer or ordinary committee member.

(3) The nomination must be:

(a) made in writing (including by electronic means), and

(b) proposed and seconded by 2 Voting Members, not including the candidate, and

(c) accompanied by the written consent of the candidate and a short statement of the candidate's relevant skills and experience, and

(d) given to the secretary at least 14 days before the date fixed for the annual general meeting at which the election is to take place.

(4) A retiring committee member may nominate for re-election by giving the secretary written notice of their candidacy within the time in subclause (3)(d), without being proposed and seconded.

(5) The secretary must give each Voting Member a list of the candidates nominated, and the position for which each is nominated, together with each candidate's statement, at least 7 days before the annual general meeting.

(6) If the number of nominations received is equal to or less than the number of vacancies to be filled, the candidates nominated are taken to be elected, and if any vacancies remain a call for further nominations must be made at the meeting, to be made in the way directed by the member presiding.

(7) Vacancies that remain after a call for further nominations are taken to be casual vacancies. If the number of elected committee members is then below the minimum in clause 22(1), the committee must, within 3 months, appoint eligible members under clause 25(5) (with their consent) so that the committee consists of at least that minimum.

(8) If the number of nominations received is more than the number of vacancies to be filled, a secret ballot must be held at the meeting, or by postal or electronic ballot under clause 48 concluding before or at the meeting, conducted by a returning officer appointed by the committee who is not a candidate or a committee member.

(9) Office-bearers are to be elected first, and an unsuccessful candidate for an office may stand for election as an ordinary committee member.

(10) A Voting Member may vote in an election held at a general meeting by proxy under clause 47 or, if the committee so determines, by direct vote under clause 49. A proxy may be directed to vote for a named candidate.

24 Terms of office and re-election

(1) Subject to this constitution, a committee member holds office from the close of the meeting at which the member is elected until the close of the next annual general meeting.

(2) All committee positions are filled by election at each annual general meeting.

(3) A retiring committee member is eligible, if otherwise qualified, for re-election, and may be re-elected by the members at successive annual general meetings without limit.

(4) There is no limit on the number of consecutive terms, or the total period, for which a person may hold office as a committee member or office-bearer.

(5) If an annual general meeting is not held within the time required by the Act, the committee members continue in office until the close of the next general meeting at which an election is held.

25 Vacancies in office

(1) A casual vacancy in the office of a committee member arises if the member:

(a) dies, or

(b) ceases to be a member of the association or, for a member representative, ceases to be the member representative of a Voting Member or ceases to be a director, partner, officer or employee of that Organisation Member, or

(c) resigns from office by written notice given to the secretary, or

(d) is removed from office under subclause (2), or

(e) is absent from 3 consecutive meetings of the committee without the consent of the committee, unless the committee resolves otherwise, or

(f) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* (Cth), or

(g) is prohibited from being a director of a company under the *Corporations Act 2001* (Cth), Part 2D.6, or

(h) is convicted of an offence involving fraud or dishonesty for which the maximum penalty is imprisonment for at least 3 months, or

(i) becomes a mentally incapacitated person or is otherwise permanently unable to perform the functions of the office, or

(j) becomes a paid employee of the association.

(2) The association in general meeting may, by resolution, remove a committee member from office at any time and appoint another eligible member to hold office for the balance of the committee member's term.

(3) A committee member to whom a proposed resolution under subclause (2) relates may give a written statement of reasonable length to the president or secretary and request that the committee send a copy to each member at least 7 days before the general meeting at which the resolution will be considered.

(4) If the committee fails to send the statement as requested, it must be read aloud by the member presiding at the general meeting.

(5) The committee may appoint an eligible member to fill a casual vacancy, other than a vacancy arising from removal from office under subclause (2). A person so appointed holds office until the next annual general meeting and is eligible for election at that meeting.

(6) If the number of committee members falls below the minimum in clause 22(1), the continuing committee members may act only to fill vacancies, to call a general meeting, or in an emergency.

(7) Within 14 days after vacating office, a former committee member must deliver all documents of the association in their possession to the public officer.

26 Duties of committee members and conflicts of interest

(1) Each committee member must carry out their functions for the benefit, so far as practicable, of the association and with due care and diligence, and must not dishonestly use their position, or information obtained as a committee member, to gain an advantage for themselves or another person or to cause detriment to the association.

(2) A committee member who has a direct or indirect interest in a matter being considered, or about to be considered, at a committee meeting that appears to raise a conflict with the proper performance of their duties must, as soon as possible after the relevant facts come to their knowledge, disclose the nature of the interest at a committee meeting.

(3) A committee member may give a standing disclosure that they are a member, partner, director or employee of, or have another specified interest in, a specified company, body or person. That disclosure is sufficient disclosure for any later matter relating to that company, body or person.

(4) Particulars of each disclosure must be recorded in the minutes and in a book of disclosures kept by the secretary for that purpose, in the same form (physical or electronic) and location as the register of committee members.

(5) Unless the committee otherwise determines, the interested member must not be present during any deliberation on the matter, or take part in any decision on it. The interested member must not be present for, or take part in, the committee's determination under this subclause and is not counted in the quorum for that item of business.

(6) Committee members and members attending meetings of the association must not use meetings or communications of the association to discuss or agree on prices, customers, markets or other competitively sensitive matters, and must comply with any competition law policy adopted by the committee.

(7) A committee member must keep confidential any commercially sensitive information obtained as a committee member, unless disclosure is authorised by the committee or required by law.

Note: The Act, section 30A sets out the duty of committee members, section 31 deals with disclosure of interests (including the book of disclosures, which members may inspect), and sections 32 and 33 create offences for dishonest use of information or position.

27 Secretary

(1) As soon as practicable after being elected, the secretary must lodge a notice with the association specifying the secretary's address.

(2) The secretary must keep minutes of all elections of committee members, the names of committee members present at each committee meeting and general meeting, any disclosures of interest made under clause 26, and all proceedings at committee meetings and general meetings.

(3) The minutes must be kept in written or electronic form and, for minutes of proceedings at a meeting, signed (in writing or by electronic means) by the member who presided at the meeting or the member presiding at the subsequent meeting.

28 Register of committee members

(1) The secretary must keep a register of committee members containing each committee member's name, the date they took office and the date they vacated office, and any other particulars prescribed by the Regulation.

(2) Any change in the committee's membership must be recorded within one month. The register may be kept in physical form (in New South Wales, at the association's main premises or official address) or in electronic form.

(3) The association must, on request, give a person a copy of the register within a reasonable period, free of charge.

Note: The Act, section 29.

29 Public officer

(1) The committee must appoint a public officer, who must be at least 18 years of age and ordinarily resident in New South Wales, and may be a committee member.

(2) The public officer vacates office in the circumstances set out in the Act, section 35, including if the public officer ceases to ordinarily reside in New South Wales.

(3) The committee must fill a vacancy in the office of public officer within 28 days after it arises, and a new public officer must notify the Secretary (NSW Fair Trading), in the approved form, within 28 days after taking office.

Note: The Act, sections 34 and 35 deal with the public officer. The public officer is also, by virtue of that office, an authorised signatory (section 36(1)).

30 Treasurer

The treasurer must ensure that:

(a) all money owed to the association is collected, and

(b) all payments authorised by the association are made, and

(c) correct books and accounts are kept showing the financial affairs of the association, including full details of receipts and expenditure, and

(d) financial statements are prepared, and reviewed or audited where required, in accordance with the Act.

31 Delegation to subcommittees and others

(1) The committee may establish one or more subcommittees to assist it to exercise its functions, and appoint one or more members of the association (and, for an advisory or disciplinary subcommittee, other persons with relevant expertise) to be members of a subcommittee.

(2) The committee may, by written instrument, delegate to a subcommittee the exercise of the committee's functions specified in the instrument, other than this power of delegation or a duty imposed on the committee by the Act or another law.

(3) The committee may also, by written instrument, delegate specified functions to a committee member or an employee of the association. The delegate must exercise them in accordance with the directions of the committee, and the committee may revoke the delegation at any time.

(4) The procedure for calling and conducting business at a meeting of a subcommittee is as determined by the subcommittee, subject to any direction of the committee.

Note: The *Interpretation Act 1987*, section 49 deals with various matters relating to delegations.

Division 2 Procedure

32 Committee meetings

(1) The committee must meet at least 3 times in each 12-month period at the place and time determined by the committee. A meeting may be held wholly or partly by electronic means.

(2) Additional meetings of the committee may be called by any committee member.

Note: The Act, section 30 deals with committee meetings.

33 Notice of committee meeting

(1) The secretary must give each committee member oral or written (including electronic) notice of a meeting of the committee at least 48 hours, or another period on which the committee members unanimously agree, before the meeting.

(2) The notice must describe the general nature of the business to be transacted.

(3) The only business that may be transacted is the business described in the notice and business that the committee members present unanimously agree is urgent.

34 Quorum for committee meetings

(1) The quorum for a meeting of the committee is a majority of the committee members in office.

(2) No business may be transacted by the committee unless a quorum is present for the whole of the item of business, disregarding a temporary absence caused by a disconnection from a meeting held by electronic means.

(3) If a quorum is not present within half an hour of the time the meeting is due to commence, the meeting is adjourned to the same time and place (or electronic means) on the same day in the following week, and if a quorum is not then present within half an hour, the meeting is dissolved.

(4) If the number of committee members is less than the number required for a quorum, the committee members may appoint one or more eligible members as committee members to enable a quorum to be constituted. A person so appointed holds office until the next annual general meeting.

(5) Subclause (4) does not apply to the filling of a casual vacancy to which clause 25 applies.

(6) A committee member may not vote by proxy at a committee meeting.

Note: The Act, section 28A provides for the filling of vacancies on the committee to constitute a quorum.

35 Presiding committee member

(1) The president presides at meetings of the committee, or, if the president is absent, the vice-president, or, if both are absent, a committee member elected by the committee members present.

(2) The member presiding has a deliberative vote and, in the event of an equality of votes, a second or casting vote.

36 Voting at committee meetings

A decision supported by a majority of the votes cast at a meeting of the committee or a subcommittee at which a quorum is present is the decision of the committee or subcommittee.

37 Acts valid despite vacancies or defects

(1) Subject to clause 34(1), the committee may act despite a casual vacancy in the office of a committee member.

(2) An act done by the committee or a subcommittee is not invalidated because of a defect in the qualifications or appointment of a member of the committee or subcommittee.

38 Committee business outside meetings and by electronic means

(1) The committee may transact business by the circulation of papers, including by electronic means, among all committee members, and a written resolution approved in writing (including by email) by a majority of committee members is taken to be a decision of the committee made at a meeting.

(2) The committee may transact business at a meeting at which one or more committee members participate by telephone or other electronic means, provided each member who speaks can be heard by the other members.

(3) The member presiding and each other member have the same voting rights under this clause as at an ordinary meeting of the committee.

(4) A resolution approved under subclause (1) must be recorded in the minutes of committee meetings.

(5) For subclause (1), separate copies of a document in identical terms may be approved by different committee members, and an email from a committee member stating their approval is taken to be approval in writing.

39 Execution of documents

(1) The association may execute a document (including a deed) without a common seal if it is signed by 2 committee members, or by 1 committee member and the public officer, or by a person authorised by the committee under a written delegation.

(2) The association need not have a common seal.

Note: The Act, sections 21A and 22.

Part 5 General meetings

40 Annual general meetings

(1) The association must hold an annual general meeting within 6 months after the end of each financial year, or any later period allowed or prescribed in accordance with the Act, section 37.

(2) Subject to the Act, the annual general meeting is held at the place (which may include electronic means) and time determined by the committee.

(3) The business of an annual general meeting includes:

(a) confirming the minutes of the previous annual general meeting and of any special general meeting held since,

(b) receiving reports from the committee on the association's activities during the previous financial year,

(c) electing office-bearers and ordinary committee members,

(d) receiving and considering the financial statements or reports required to be submitted to members under the Act,

(e) receiving the disclosure of payments required by clause 6(5), and

(f) if required by the Act (for a Tier 1 association, section 43) or decided by the committee, appointing an auditor or reviewer.

(4) The member presiding at an annual general meeting must allow members a reasonable opportunity to ask questions about, and comment on, the management of the association, and, if an auditor or reviewer has been appointed and attends the meeting, to ask the auditor or reviewer questions relevant to the audit or review.

Note: The Act, section 37 provides for when annual general meetings must be held.

41 Special general meetings

(1) The committee may call a special general meeting whenever it thinks fit.

(2) The committee must call a special general meeting if it receives a request made by at least 5% of the total number of Voting Members.

(3) The request must be in writing, state the purpose of the meeting, be signed by the members making it (and may consist of several documents in similar form), and be lodged with the secretary. It may be made, signed and lodged by electronic means.

(4) If the committee fails to call the meeting within 1 month of the request being lodged, one or more of the members who made the request may call a special general meeting to be held within 3 months of the date the request was lodged, conducted as far as practicable in the same way as a meeting called by the committee.

42 Notice of general meeting

(1) The secretary must give each member notice of a general meeting at least 21 days before the meeting if a special resolution is proposed, and otherwise at least 14 days before the meeting.

(2) The notice must specify:

(a) the place and time of the meeting and, if members may participate by electronic means, how to do so, and

(b) the nature of the business to be transacted, and

(c) if a special resolution is proposed — that fact and the text of the proposed resolution, and

(d) for an annual general meeting — that it is an annual general meeting, and

(e) that each Voting Member may appoint a proxy, and the physical or email address to which, and the time by which, instruments of proxy must be received, and

(f) for an annual general meeting at which an election is to be held — the names of the candidates nominated, if known when the notice is given, or otherwise that a list of candidates will be given under clause 23(5).

(3) The only business that may be transacted at the meeting is the business specified in the notice and, for an annual general meeting, the business referred to in clause 40(3).

(4) A member may give written notice to the secretary of business the member wishes to raise at a general meeting, and the secretary must specify that business in the next notice calling a general meeting if received at least 28 days before the meeting.

(5) The accidental omission to give notice of a general meeting to, or the non-receipt of notice by, any person entitled to it does not invalidate the meeting or any resolution passed at it.

(6) The committee may postpone, cancel or change the venue or electronic means of a general meeting it has called by notice to members, except a meeting called on the request of members or where doing so would be contrary to the Act. The accidental failure to give, or the non-receipt of, notice of the postponement, cancellation or change does not invalidate it or any resolution passed at a postponed meeting.

43 Quorum for general meetings

(1) The quorum for a general meeting is 5 Voting Members present in person, by member representative, by proxy or by electronic means, of whom at least 3 must be present other than by proxy.

(2) No business may be transacted at a general meeting unless a quorum is present.

(3) If a quorum is not present within half an hour of the time the meeting is due to commence, the meeting:

(a) if called on the request of members — is dissolved, or

(b) otherwise — is adjourned to the same time on the same day in the following week, at the same place (or by the same electronic means) unless another place or means is specified by the member presiding or in written notice given to members at least 1 day before the adjourned meeting.

(4) If a quorum is not present within half an hour at the adjourned meeting, but at least 3 Voting Members are present (other than by proxy), those members constitute a quorum.

44 Adjourned meetings

(1) The member presiding may, with the consent of a majority of the Voting Members present, adjourn a general meeting to another time and place.

(2) The only business that may be transacted at the adjourned meeting is business remaining from the meeting at which the adjournment took place.

(3) If a meeting is adjourned for at least 14 days, the secretary must give each member notice of the time, place and business of the adjourned meeting at least 1 day before it.

45 Presiding member

(1) The president presides at general meetings, or, if the president is absent, the vice-president, or, if both are absent, a Voting Member elected by the Voting Members present.

(2) The member presiding has a deliberative vote and, in the event of an equality of votes, a second or casting vote.

46 Voting at general meetings

(1) Only Voting Members may vote at a general meeting. A Voting Member is not entitled to vote unless the member (or, for an Organisation Member, its member representative) is at least 18 years of age and the member has paid all money owed by it to the association that fell due more than 7 days before the meeting.

(2) Each Voting Member has 1 vote, except as provided by clause 45(2) and except that a person may also cast votes as proxy under clause 47.

(3) A question arising at a general meeting must be decided by:

(a) a show of hands or an equivalent indication by members participating by electronic means, or

(b) if clause 50 applies — an appropriate method determined by the committee, or

(c) a written or electronic ballot, if the member presiding so directs or at least 3 Voting Members present request it.

(4) If a question is decided by a method in subclause (3)(a) or (b), a declaration by the member presiding, or an entry in the minute book, is sufficient evidence that a resolution has been carried or lost.

(5) A written or electronic ballot must be conducted in accordance with the directions of the member presiding.

(6) A Voting Member may vote by proxy in accordance with clause 47, except on an appeal under clause 16.

(7) An objection to the right of a person to vote, or to the admission or rejection of a vote, may be raised only at the meeting at which the vote is cast. The decision of the member presiding on the objection is final, and a vote not disallowed is valid.

47 Proxies

(1) A Voting Member may appoint as its proxy, to attend, speak and vote on its behalf at a general meeting (including any adjournment of it):

(a) an individual who is a Voting Member, or

(b) the member representative of an Organisation Member that is a Voting Member, or

(c) the member presiding at the meeting.

(2) An instrument of proxy must:

(a) be in writing (including electronic form) in the form approved by the committee, or in a form to the same effect,

(b) state the name of the appointing member, the name of the proxy (or the office held by the proxy), and the meeting to which it relates, and

(c) be signed (including electronically) by the appointing member or, for an Organisation Member, by its member representative or another authorised officer.

(3) An instrument of proxy is valid only if it is received by the secretary, at the physical or email address specified in the notice of meeting, at least 48 hours before the start of the meeting or adjourned meeting at which it is to be used.

(4) If an instrument of proxy directs how the proxy is to vote on a resolution or in an election, the proxy must vote as directed. Otherwise the proxy may vote as the proxy thinks fit.

(5) If an instrument of proxy does not name a proxy, or the named proxy does not attend the meeting, the member presiding is taken to be appointed as the proxy.

(6) A person may not act as proxy for more than 5 Voting Members at the same meeting, except the member presiding acting under subclause (5). An instrument of proxy received in excess of that limit, in the order received by the secretary, is taken to appoint the member presiding.

(7) On a show of hands or equivalent indication, a proxy may cast one vote for each Voting Member who appointed them, in addition to any vote they have in their own right, and must tell the member presiding how many votes they are casting and in what capacity.

(8) An appointment of a proxy remains valid until the secretary receives written notice revoking it or a later-dated instrument of proxy from the same member. If the appointing member (or its member representative) attends the meeting and votes on a resolution, the proxy may not vote for that member on that resolution.

(9) If a Voting Member has cast a direct vote on a resolution under clause 49, a proxy may not vote for that member on that resolution.

(10) A vote cast by a proxy in accordance with this clause is valid even if the appointment was revoked, or the appointing member ceased to be a member, before the vote, unless the secretary received written notice of that fact before the meeting started.

(11) Proxies may not be used on an appeal under clause 16, at a committee meeting or at a meeting of a subcommittee.

Note: The Act, Schedule 1, item 10 requires the constitution to address whether proxy votes are permitted.

48 Postal, electronic or combined ballots

(1) The association may hold a postal, electronic or combined ballot, as determined by the committee, to decide any matter other than an appeal under clause 16.

(2) The ballot must be conducted in accordance with Schedule 2 to the Regulation.

49 Direct voting

(1) The committee may determine that Voting Members may cast a direct vote on any resolution (including the election of committee members, but not an appeal under clause 16) to be considered at a general meeting, by post or electronic means received before the votes on that resolution are counted at the meeting.

(2) Direct voting is to be conducted as a postal, electronic or combined ballot under clause 48, and direct votes are counted together with votes cast at the meeting.

(3) The committee may make policies about the form, method and timing of direct votes.

50 Member business outside meetings and by electronic means

(1) The association may transact business by the circulation of papers, including by electronic means, among all Voting Members, and a written resolution approved in writing by a majority of all Voting Members is taken to be a decision of the association made at a general meeting.

(2) Subclause (1) does not apply to a special resolution, the removal of a committee member, an appeal under clause 16, or the election of committee members.

(3) The association may hold a general meeting at which one or more members participate by telephone or other electronic means (including a meeting held wholly by electronic means), provided each member who speaks can be heard by the other members. Members so participating are taken to be present.

(4) A resolution approved under subclause (1) must be recorded in the minutes of general meetings.

Note: The Act, section 37 contains requirements relating to meetings held at 2 or more venues using technology.

Part 6 Administration

51 Change of name, objects or constitution

(1) The association's name, objects or constitution may only be changed by special resolution.

(2) An application for registration of the change under the Act, section 10 must be made by the public officer or a committee member within the time required by the Act. The change takes effect when it is registered.

52 Funds

(1) Subject to a resolution passed by the association in general meeting, the association's funds may be derived from entrance fees and annual subscription fees, donations, sponsorships, grants, events and services, and other sources determined by the committee.

(2) Subject to a resolution passed by the association in general meeting, the association's funds and assets must be used to pursue its objects in the way the committee determines.

(3) As soon as practicable after receiving money, the association must deposit it, without deduction, to the credit of the association's account with an authorised deposit-taking institution, and issue a receipt (which may be electronic) to the payer.

(4) Any payment from the association's accounts, whether by cheque, electronic funds transfer or other means, must be authorised by 2 authorised signatories, or made in accordance with a written delegation or spending policy approved by the committee.

(5) The public officer is an authorised signatory. The committee may appoint additional authorised signatories from members who are ordinarily resident in Australia, and may revoke those appointments.

Note: The Act, section 36 provides for the appointment of authorised signatories.

53 Insurance

The association may take out and maintain insurance as appropriate for its assets and liabilities, including public liability and committee members' (directors' and officers') liability insurance.

54 Indemnity

To the extent permitted by law, the association indemnifies each person who is or has been a committee member, the public officer or the secretary out of the assets of the association against any liability (including reasonable legal costs) incurred by the person in good faith in carrying out their functions for the association, except liability arising from dishonesty, wilful misconduct or a lack of good faith.

Note: The Act, section 30B.

55 Service of notices

(1) A notice may be given to or served on a person by delivering it personally, by sending it by pre-paid post to the person's address, or by sending it by electronic means to an address specified by the person for that purpose.

(2) A notice may also be given to members by making it available on the association's website or online member portal and notifying members by email that it is available, in which case it is taken to be given when first made available.

(3) A member who has not given the association a postal or email address is not entitled to receive notices.

(4) Unless the contrary is proved, a notice is taken to have been given or served: if given personally — on the date it is received; if sent by pre-paid post — on the date it would have been delivered in the ordinary course of post; and if sent by electronic means — on the date it was sent (or, if sent after 5 pm in the recipient's time zone, on the next business day).

56 Custody of records and books

(1) Except as otherwise provided by this constitution, all records, books and other documents of the association must be kept in New South Wales at the association's main premises, in the custody of the public officer or a member determined by the committee, or, if the association has no premises, at its official address in the custody of the public officer.

(2) Records may be kept in electronic form, provided they are securely stored, backed up and able to be produced in hard copy in New South Wales when required.

(3) Records must be retained for at least the period required by the Act and other applicable laws, and instruments of proxy and direct votes must be kept for at least 12 months after the meeting to which they relate.

57 Inspection of records and books

(1) This constitution, minutes of committee meetings and general meetings, the register of interests, and other records, books and documents of the association must be available for inspection, free of charge, by members at a reasonable time, in hard copy or in electronic form if available.

(2) A member may obtain a copy of a document referred to in subclause (1) on payment of a fee of not more than $1 per page, as determined by the committee.

(3) The committee may refuse to allow a member to inspect or copy a document that relates to confidential, personal, commercial, employment or legal matters, or if the committee considers it would be prejudicial to the interests of the association.

58 Financial year

The association's financial year is the period of 12 months commencing on 1 July and ending on the following 30 June.

59 Policies and by-laws

(1) The committee may make, amend and revoke policies and by-laws, not inconsistent with the Act, the Regulation or this constitution, for the management of the association, including membership eligibility criteria, codes of conduct, competition law compliance, privacy, financial delegations and the conduct of proxy and direct voting.

(2) Policies and by-laws bind members, and must be made available to members on request or on the association's website.

60 Distribution of property on winding up

(1) Subject to the Act and the Regulation, in a winding up of the association, the surplus property of the association must not be distributed to members, and must be transferred to another organisation with similar objects which is not carried on for the profit or gain of its members and whose constitution prohibits the distribution of its income and property to its members.

(2) The organisation is to be determined by special resolution of the Voting Members at or before the time of winding up or, failing such a resolution, as provided by the Act, section 65 (by direction of the Secretary).

(3) Any distribution of surplus property is subject to the approval of the Secretary (NSW Fair Trading) as required by the Act, and any surplus property supplied by a government department or public authority (including an unexpended grant) must be returned to that department or authority or a body it nominates.

(4) In this clause, surplus property has the same meaning as in the Act, section 65.

61 Transitional provisions

(1) The committee members in office immediately before this constitution took effect continue in office until the close of the next annual general meeting, in the corresponding positions under this constitution.

(2) Any by-laws, policies and subcommittees of the association in force immediately before this constitution took effect continue as if made or established under this constitution, until amended or revoked by the committee.

(3) Anything done under the previous constitution before this constitution took effect, including any election held and resolution passed, continues to have effect as if done under this constitution.