

Constitution

A G A Club Germania Limited



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1. The company

1.1 Name of the company

The name of the *club* is A G A Club Germania Limited.

1.2 Nature of the club

The *club* is a public company limited by guarantee.

2. Objects and powers

2.1 Objects of the club

The objects of the *club* are set out in schedule 1.

2.2 Powers of the club

The *club* has the capacity and all of the powers of a natural person.

3. Replaceable rules

The provisions of the *Corporations Act* that apply to certain companies as replaceable rules are displaced by this constitution in their entirety and do not apply to the *club*.

Corporations Act Commentary
For details of the operation of replaceable rules: see s 135(2).

4. Property and income of the club

4.1 Application of income and property

The income and property of the *club*:

4.1.1 must be applied solely towards the promotion of the objects of the *club* set out in this constitution; and

4.1.2 shall not be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to the *members*.

4.2 Benefits and advantages

Except to the extent permitted by the *Registered Clubs Act*:

4.2.1 a *member*, whether or not they are a member of the *board* or any committee of the *club* shall not be entitled to derive directly or indirectly, any profit, benefit or advantage from the *club* that is not offered equally to every *eligible member* of the *club*; and

4.2.2 a person, other than the *club* or its *members* shall not under this constitution or otherwise, be entitled to derive, directly or indirectly, any profit, benefit or advantage from:

- (a) the fact that the *club* has applied for or is granted a licence under the *Liquor Act*;
- (b) the registration of the *club*; and
- (c) any added value that may accrue to the *premises* because the *club* has applied for, or is granted, a licence under the *Liquor Act*,

unless it is a profit, benefit or advantage derived from dealings reasonably carried out, or contracts reasonably made, with the *club* in the ordinary course of its lawful business.

Registered Clubs Act Commentary

This clause must be read subject to ss10(6), 10(6A) and 10(7) which provide exemptions from the operation of these requirements.
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4.3 Payments to directors

Subject to clause 4.4, a *director* shall not:

- 4.3.1 hold or be appointed or elected to an office of the *club* paid by salary or wages or a similar basis of remuneration; or
- 4.3.2 receive from the *club* remuneration or other benefit in money.

Registered Clubs Act Commentary

A director is entitled to receive the following monies:

- | |
|--|
| (a) an honorarium – s10(6)(b); and |
| (b) repayment of out of pocket expenses – s10(6)(d). |

4.4 Exceptions

Subject to clause 4.3, nothing in this constitution shall prevent the payment:

- 4.4.1 in good faith of reasonable and proper remuneration to any employed *officer* or other employee of the *club*;
- 4.4.2 in good faith of reasonable and proper remuneration to any *member* in return for services actually rendered;
- 4.4.3 of interest at a rate not exceeding interest at the rate for the time being charged by the Commonwealth Bank of Australia for overdrawn accounts on money lent by a *member* to the *club*; or
- 4.4.4 of reasonable and proper rent for premises leased or licensed by any *member* to the *club*.

5. Liquor and gaming

5.1 Restrictions on liquor sales

Subject to the *Registered Clubs Act* and *Liquor Act*, liquor must not be sold, supplied or disposed of on the *premises*:

5.1.1 to any person under the age of 18 years; or

5.1.2 to any person other than a *member* except on the invitation and in the company of a *member*.

Registered Clubs Act Commentary
An authority may be granted to the <i>club</i> to permit persons who are not <i>members</i> or under the age of 18 years to attend a function in a specified part of the <i>premises</i> for Christmas celebrations or other function of a cultural, educational, religious, patriotic, professional, charitable, political, literary, sporting, athletic, industrial or community nature - s23

5.1.3 Benefits from liquor sales

The *secretary* or any employee, *director* or *member* shall not be entitled to receive directly or indirectly any payment calculated by reference to the quantity of liquor purchased, supplied, sold or disposed of by the *club* or the receipts of the *club* for any liquor supplied or disposed of by the *club*.

5.1.4 Restrictions on gaming

A person under the age of 18 years must not use or operate the gaming facilities of the *club*.

5.1.5 Benefits from gaming

Except to the extent permitted by the *Gaming Machine Act*, the *club* must not:

- (a) share any receipts arising from the operation of an approved gaming machine kept by the *club* and shall not make any payment or part payment by way of commission or an allowance from or on any such receipts; and
- (b) grant any interest in an approved gaming machine kept by the *club* to any other person.

Gaming Machines Act Commentary
ss73 and 74 contain exemptions to these restrictions. 'Approved gaming machine' is defined in the Act.

6. Membership

6.1 Membership numbers

6.1.1 The number of *members* shall not be less than the minimum permissible under the *Registered Clubs Act*.

Registered Clubs Act Commentary
The maximum number of full members is prescribed by s10(1)(d) and is currently 100 or such lesser number, not being less than 30 as the <i>authority</i> may in special circumstances determine in respect of the <i>club</i> .

6.1.2 At the date of adoption of this constitution, the number of *members* is declared not to exceed 650, but the *board* may from time to time register an increase or decrease in the maximum number of *members*.

6.2 Categories of members

The membership of the *club* shall be divided into the following categories:

6.2.1 *ordinary member*;

6.2.2 *life member*;

6.2.3 *honorary member*;

6.2.4 *temporary member*; and

6.2.5 *provisional member*,

and a person cannot be admitted as a *member* except as one of these categories of *member*.

6.3 Membership card

Where a *member* is issued with a membership card, such card must be produced upon request of any *officer* or employee of the *club* and if such *member* is unable to produce the membership card then they may be required to leave the *club* immediately

[Note: We have included this from clause 8 of the existing constitution, but it may be more appropriate for inclusion in the by-laws]

6.4 Employees

Despite any other provision of this constitution, an employee of the *club* shall not vote at any *general meeting*, or hold office as a *director*.

7. Ordinary Members

7.1 Definition

7.1.1 An *ordinary member* means a natural person who is elected to membership of the *Club* in accordance with this constitution.

7.1.2 *Ordinary members* shall consist of such classes or classifications of membership as the *board* may from time to time determine.

[Note: We have removed the words 'unless the members in general meeting otherwise determine' from existing clause 4 as it is not clear how this is intended to operate]

Rights

7.1.3 An *ordinary member* is entitled to:

- (a) attend and vote at *general meetings* of the *club*;
 - (b) nominate for and be elected to hold office on the *board*;
 - (c) propose, second, or nominate any *member* for any office of the *club*;
 - (d) propose, second or nominate any *member* for life membership;
 - (e) introduce *guests* to the *club*; and
 - (f) all of the social, facilities, amenities privileges as set out in the *by-laws* of the *club* from time to time corresponding to the relevant class of *ordinary member*,
- provided that they are a *financial member*.

[Note: We have removed references to foundation members (existing clause 9), as we understand that there are no foundation members remaining as members]

7.2 Procedure for admission of ordinary members

The procedure for the admission of an applicant for ordinary membership is as follows:

7.2.1 every application to be an *ordinary member* must be in writing in the form prescribed by the *board* and contain the following particulars:

- (a) the full name and residential suburb of the applicant and the full name of the proposer and seconder (who each must be *eligible members*);
- (b) the category of ordinary membership sought; and
- (c) such other particulars as may be prescribed by the *board* from time to time;

7.2.2 the application must be accompanied by the amount of any applicable *application fee* and *membership fee*;

7.2.3 the name and address of every applicant must be posted on the *noticeboard* for at least 7 *days* (or such greater period prescribed by the *Registered Clubs Act*) prior to the date of the meeting of the *board* at which the nomination will be considered;

- 7.2.4 an interval of at least 14 *days* must elapse between the date of nomination and the date of election;
- 7.2.5 the election of *ordinary members* must be by the *board* at a meeting to be convened and the *secretary* must keep a record of the names of the members of the *board* present and voting at the meeting and the names of the *ordinary members* elected;
- 7.2.6 the *board* may reject any application for ordinary membership without providing any reason for rejection. The *secretary* must promptly return to rejected applicants the amount of the *application fee* (if any) and *membership fee* lodged with the nomination;
- 7.2.7 the *secretary* must promptly give notice to each elected *ordinary member* of their election;
- 7.2.8 any *application fee* and *membership fee* not already paid by the applicant must be paid by the applicant within 1 *month* of notice of election of membership being given and if either fee is not paid by this time, the *board* may cancel such membership; and
- 7.2.9 every person who has been elected pursuant to this clause shall become an *ordinary member* in the relevant category and will be bound by this constitution and the rules and *by-laws* of the *club* in force from time to time.

7.3 Transfer of membership

- 7.3.1 The *board* may, on written application of an *ordinary member*, transfer that *member* from any class of ordinary membership to another class of ordinary membership to which that *member* is entitled to be elected.
- 7.3.2 An *ordinary member* so transferred is not entitled to receive a refund or reduction of any *application fee* or *membership fee* paid for the then *financial year* but can be required to pay the difference between the *application fee* or *membership fee* or both applicable to the existing class and the new class of membership.

7.4 Criteria for membership to be met

- 7.4.1 An *ordinary member* will cease to be a *member* upon them ceasing to meet the stated criteria for the relevant class of membership in which they are a *member*.

8. Provisional members

8.1 Definition

A *provisional member* is a person who has:

- 8.1.1 completed and submitted a nomination form for ordinary membership of the *club* in accordance with this constitution; and
- 8.1.2 paid to the *club* any *application fee* and *membership fee*,

and the *board* has not made a decision in relation to that person's membership of the *club*.

8.2 Rights of provisional members

Provisional members have all of the rights of *ordinary members*, except they are not entitled to:

- 8.2.1 attend or vote at any meeting of the *club*;
- 8.2.2 nominate for or be elected to the *board* or any office of the *club*; or
- 8.2.3 vote in the election of the *board*;
- 8.2.4 propose, second, or nominate any eligible *member* for any office of the *club*;
- 8.2.5 propose, second or nominate any eligible *member* for life membership, or;
- 8.2.6 introduce *guests* into the club other than a minor in accordance with clause 13.1.

8.3 Provisional membership receipt

A *provisional member* may be issued with a provisional membership receipt or card (*provisional membership receipt*) containing:

- 8.3.1 details of the *provisional member's* name;
- 8.3.2 details of the date on which provisional membership commences and terminates;
- 8.3.3 the signature of a nominee of the *board*; and
- 8.3.4 such other particulars as the *board* may prescribe from time to time.

8.4 Provision of identification receipt

- 8.4.1 A *provisional member* will be required to produce their *provisional membership receipt* at any time if requested to do so by an *officer* or employee of the *club*.
- 8.4.2 If a *provisional member* is unable to produce their *provisional membership receipt*, they must leave the *club* immediately on request by an *officer* or employee of the *club*, and such provisional membership shall forthwith lapse.

8.5 Termination of provisional membership

Provisional membership:

- 8.5.1 may be terminated at the discretion of the *board* at any time, without giving reasons; and
- 8.5.2 will terminate on the later of:

- (a) the decision of the *board* in respect of the *provisional member's* application for ordinary membership; or
- (b) 2 months from the date of commencement of the provisional membership.

9. Temporary members

9.1 Definition

A natural person is eligible to be a *temporary member* if:

- 9.1.1 their ordinary place of residence is outside of New South Wales;
- 9.1.2 their ordinary place of residence is in New South Wales and is more than 5 kilometres from the *club*;
- 9.1.3 their ordinary place of residence is in New South Wales and is not more than 5 kilometres from the *club*, but they are a full member of another club which is registered under the *Registered Clubs Act* and which has objects similar to those of the *club*; or
- 9.1.4 a full member of any registered club who, at the invitation of the *board*, attends on any *day* at the *premises* for the purpose of participating in an organised sport or competition to be conducted by the *club* on that *day* from the time on that *day* when he or she so attends the premises of the *club* until the end of that *day*.

Registered Clubs Act Commentary

s4 defines 'full member' in relation to a club, as a person who is an 'ordinary member' or 'life member' of that club.

s30(2A) requires that there is to be placed at all times at each entrance on the *club premises* at which *members* and *guests* are permitted to enter:

- (a) a map that clearly shows the limits of the area within which an ordinary resident is not eligible for temporary membership;
- (b) the rules of the *club* that relate to temporary membership;
- (c) a copy of s30(10) of the *Registered Clubs Act*; and
- (d) a copy of the definition of 'guest' in s4 of the *Registered Clubs Act*.

As the *club* permits admission of temporary members, s30B provides that persons may be admitted as temporary members of the club for a period of up to, but not exceeding 7 consecutive days (or for such longer period, up to 30 consecutive days as the *authority* may approve in writing in relation to the *club*).

9.2 Register of temporary members

The *club* must keep a register of *temporary members* in accordance with the *Registered Clubs Act*.

Registered Clubs Act Commentary

s30(2) requires that if a *temporary member* enters the *premises*, the following particulars must be recorded in the *club's register of temporary members*:

- (a) the full name or the surname and initials of the *temporary member*;
- (b) the address of the *temporary member*;
- (c) the date on which *temporary membership* is conferred; and
- (d) the signature of the *temporary member*.

9.3 Rights of temporary members

Temporary members:

9.3.1 are not required to pay an *application fee* or *membership fee*; and

9.3.2 will not be entitled to:

- (a) attend or vote at any meeting of the *club*;
- (b) nominate for or be elected to the *board* or any office of the *club*;
or
- (c) propose, second, or nominate any eligible *member* for any office of the *club*;
- (d) propose, second or nominate any eligible *member* for life membership; or
- (e) introduce *guests* into the *club* other than a minor in accordance with clause 13.1.

9.4 Identification card

A *temporary member* may be issued with a temporary membership card (*temporary membership card*) containing:

9.4.1 details of the *temporary member's* name;

9.4.2 details of the date on which temporary membership commences and terminates; and

9.4.3 such other details as prescribed by the *board* from time to time.

9.5 Provision of identification card

9.5.1 A *temporary member* will be required to produce their *temporary membership card* at any time if requested to do so by an *officer* or employee of the *club*.

9.5.2 If a *temporary member* is unable to produce their *temporary membership card*, they must leave the *club* immediately on request by an *officer* or employee of the *club*, and such temporary membership shall forthwith be revoked.

9.6 Termination of temporary membership

- 9.6.1 The *secretary* or a senior employee of the *club* who is on duty may terminate the membership of any *temporary member* at any time without notice and without having to provide any reason.
- 9.6.2 The membership of a *temporary member* will automatically lapse 7 days after they are admitted as a *temporary member*, or such longer period as may be approved from time to time by the *board* and the *authority*.

10. Life members

10.1 Definition

A *life member* is an *ordinary member* who has:

- 10.1.1 rendered long and meritorious service to the *club*;
- 10.1.2 been granted life membership in accordance with clause 10.3 on account of their service or other commendable reason.

10.2 Rights

Life members:

- 10.2.1 are not required to pay any *application fees* or *membership fees*; and
- 10.2.2 have all the rights of an *ordinary member*.

10.3 Procedure for admission

The procedure for the admission of a *life member* is as follows:

- 10.3.1 applicants for life membership must be nominated in writing by not less than 2 *eligible members*;
- 10.3.2 a nomination for life membership must be in writing in such form as the *board* may require from time to time and submitted to the *secretary* at least 28 *days* before;
- 10.3.3 the *secretary* must promptly submit the nomination to the *board* for approval at the next *board* meeting;
- 10.3.4 the *board* will vote on the admission by secret ballot, and if not less than 50% of the *directors* present at the meeting and eligible to vote, vote in favour of the admission, then the admission will be considered at the next *general meeting* by secret ballot;
- 10.3.5 if not less than 50% of the *eligible members* present at the meeting and eligible to vote, vote in favour of the admission, then the candidate will be admitted as a *life member*.

- 10.4 A *life member* is a member of the club for the life of that *member*, unless they are removed earlier in accordance with this construction.

11. Honorary members

11.1 Definition

An *honorary member* is an individual who has been conferred membership by the *board*, and may include

- 11.1.1 the patron of the *club*; or
- 11.1.2 a person attending the *club* at the invitation of the *board* or its nominee provided that person is a prominent citizen or local dignitary.

11.2 Rights

11.2.1 *Honorary members* shall be entitled to the social, facilities and amenities privileges as set out in the *by-laws* of the *club* from time to time.

11.2.2 *Honorary members* will not be entitled to:

- (a) attend or vote at any meeting of the *club*;
- (b) nominate for or be elected to the *board* or any office of the *club*; or
- (c) propose, second, or nominate any eligible *member* for any office of the *club*;
- (d) propose, second or nominate any eligible *member* for life membership; or
- (e) introduce *guests* into the *club* other than a minor in accordance with clause 13.1.

11.3 Procedure for admission

11.3.1 An *honorary member* shall be proposed by one *eligible member* and seconded by one *eligible member* of the *club*.

11.3.2 Every nomination must:

- (a) be made in writing in the form prescribed by the *board* from time to time;
- (b) include the full name, address and occupation of the candidate for membership and the name of the proposer and seconder;
- (c) be signed by the candidate for membership, the proposer and seconder; and
- (d) be accompanied by the amount of any entrance fee and subscription payable from time to time.

11.3.3 The *board* will vote on the proposed admission by secret ballot, and if not less than 50% of the *directors* present at the meeting and eligible to vote, vote in favour of the admission, then the candidate will become an *honorary member*.

- 11.3.4 The *board* shall have power to determine the duration of the honorary membership and to cancel the honorary membership of any person at any time without assigning any reason

12. Application fees, membership fees and levies

12.1 Membership fee to be determined by the board

Application fees, membership fees and other payments payable by *members* shall be as the *board* may from time to time prescribe, provided that the annual *membership fee* shall not be less than the minimum subscription provided from time to time by the *Registered Clubs Act*.

Registered Clubs Act Commentary
s 30(1)(j) provides that the minimum annual <i>membership fee</i> payable by an <i>ordinary member</i> is \$2.00 as at 1 August 2019

12.2 Payment of annual membership fees

12.2.1 All annual *membership fees* will be due and payable annually in advance on the first of June each year, or more than 1 year in advance where permitted by the *board*.

12.2.2 If any fee remains unpaid for 30 *days* after it is due, the *secretary* will serve notice of the default on the defaulting *member* and if payment is not received within 14 *days* after the date of service of the notice, the defaulting *member* will cease to be a *member* and their name will be removed from the *register*.

12.3 Suspension of liability for application fees

The *board*:

12.3.1 may at any time suspend the payment of an *application fee* or *membership fee* either generally or in an individual case; and

12.3.2 have the discretionary power to fix, determine or waive the *application fee* or *membership fee* payable by any person.

12.4 Re-application for membership

Any person who has been removed from membership of the *club* pursuant to clause 15 may reapply for membership in accordance with this constitution.

13. Guests of members

13.1 Introduction of guests by temporary members and provisional members

A *temporary member* or *provisional member* may only bring into the *premises* as the *guest* of that *temporary member* a minor:

13.1.1 who at all times while on the *premises* remains in the company and immediate presence of that *temporary member* or *provisional member*;

13.1.2 who does not remain on the *premises* any longer than that *temporary member* or *provisional member*; and

13.1.3 in relation to whom the *member* is a responsible adult.

In this clause 13.1, 'responsible adult' has the meaning given to it in the *Registered Clubs Act*.

Registered Clubs Act Commentary
<p>'Responsible adult' is a person of or above the age of 18 years who, in relation to a minor, belongs to one or more of the following classes of persons:</p> <ul style="list-style-type: none">• a parent, step-parent or guardian of the minor;• the minor's spouse or any person who, although not legally married to the minor, ordinarily lives with the minor as the minor's spouse on a permanent and domestic basis; or• a person who for the time being has parental responsibility for the minor. s4

13.2 Introduction of guests

13.2.1 *Members* shall be responsible for the conduct of any *guests* they may introduce to the *club*.

13.2.2 Unless the *guest* is a minor, on each *day* that a *member* first brings a guest into the *club* that *member* must:

- (a) enter in the register of *guests* the full name and address of the *guest*; and
- (b) countersign the entry in the register of *guests*.

13.3 Restriction on guests

Members must not:

13.3.1 introduce *guests* more frequently or in greater number than as provided in the *by-laws*;

13.3.2 introduce any person as a *guest* who:

- (a) is suspended from the *club*;
- (b) has been expelled or suspended from the *club* pursuant to clause 15: or
- (c) has been refused admission to or turned out of the *club* pursuant to clause 16.

13.4 Conduct of guests on club premises

Guests must:

13.4.1 not be supplied with liquor on the *premises* of the *club* except on the invitation of and in the company of a *member*;

- 13.4.2 at all times remain in the reasonable company of the *member* who countersigned the entry in the register of *guests* in respect of that *guest*; and
- 13.4.3 not remain on the *premises* any longer than the *member* who countersigned the entry in the register of *guests* in respect of that *guest*.

The *secretary* or a senior employee of the *club* who is on duty may refuse a *guest's* admission to the *club* or require a *guest* to leave the *premises* or part of the *premises* without giving any reason.

14. Resignation and cessation of membership

14.1 Written notice of resignation

A *member* may at any time by giving notice in writing to the *secretary* resign from their membership of the *club* by giving written notice, and the resignation will take effect 1 month from the date on which the notice is received by the *secretary*.

14.2 Liability for membership fees

Any *member* who has resigned pursuant to this clause 14 will not be entitled to any refund of any *membership fees* unless the *board* considers that there are circumstances warranting the payment of the unexpired portion of the *member's membership fees* from the date of resignation.

15. Membership disciplinary proceedings

15.1 Power to reprimand, suspend or expel

Subject to this clause 15, the *board* may reprimand, suspend for such period as the *board* considers fit, expel or accept the resignation of any *member*, if that *member*, in the reasonable opinion of the *board*:

- 15.1.1 has wilfully infringed, refused or neglected to comply with any of the provisions of this constitution or *by-laws*;
- 15.1.2 is guilty of any conduct prejudicial to the interests of the *club*, which is unbecoming of a *member* or renders the *member* unfit for membership.

15.2 Notification of conduct

The *secretary* must give 7 days written notice to a *member* of:

- 15.2.1 any charge against the *member* pursuant to clause 15.1;
- 15.2.2 the substance and circumstances of the charge (including the date and approximate time of the conduct the subject of the charge);
- 15.2.3 the date, time and place of the hearing of the charge,

and the hearing must take place within 1 *month* of the date of the alleged offence or the date on which the charge is laid, whichever is the latest.

15.3 Right of appearance at conduct meeting

The *member* charged will be entitled:

- 15.3.1 to attend the hearing and make oral submissions for the purpose of answering the charge;
- 15.3.2 to be in attendance at the hearing to hear any evidence of others in relation to the charge;
- 15.3.3 to submit to the meeting written representations for the purpose of answering the charge,

and the *board* must make a decision based on any written, visual or oral evidence put before it.

15.4 Suspension pending conduct hearing

If a notice of charge is issued to a *member* pursuant to clause 15.2, the *board* may, by resolution, suspend that *member* from all rights and privileges as a *member* of the *club*:

- 15.4.1 until the charge is heard and determined; or
- 15.4.2 for 5 weeks,

whichever is the earlier, and the *secretary* must promptly notify the *member* of the suspension.

15.5 Failure by member to appear at conduct meeting

If the *member* fails to attend the conduct meeting,

- 15.5.1 the charge may be heard and dealt with by the *board*; and
- 15.5.2 the *board* may make a decision based on the evidence before it, having regard to any representations which may have been made to it in writing by the *member* charged.

15.6 Procedure for determination by the board

After the *board* has considered the written, visual or oral evidence (as the case may be) put before it, the *board* must come to a decision as to whether the *member* is guilty or not of the charge:

- 15.6.1 if the *member* charged is at the meeting, the *board* must inform the *member* whether or not they have been found guilty of the charge;
- 15.6.2 if the *member* charged has been found guilty and is at the meeting, the *member* must be given a further opportunity at the meeting to address the *board* in relation to the appropriate penalty for the charge of which the *member* has been found guilty; and
- 15.6.3 if the *member* charged has been found guilty and is not at the meeting, the *board* may determine an appropriate penalty for the charge in the absence of the *member*, and the *secretary* must promptly inform the *member* in writing of the *board's* decision.

15.7 Decision of the board

15.7.1 No motion by the *board* to reprimand, suspend or expel a *member* shall be passed unless no less than two thirds of the *directors* present in person vote by secret ballot in favour of such motion.

15.7.2 The decision by the *board* will be final and the *board* shall not be required to give any reason for its decision.

15.8 Effect of suspension

If a *member* is suspended pursuant to this clause 15, then during the period of such suspension they will not be entitled to:

15.8.1 attend at the *premises* for any purpose without the permission of the *board*;

15.8.2 participate in any of the social or sporting activities of the *club*;

15.8.3 attend or vote at any meeting of the *club*;

15.8.4 vote in the election of the *board*;

15.8.5 nominate, be elected or appointed to or hold a position on the *board*;

15.8.6 propose, second or nominate any eligible *member* for any office of the *club*; or

15.8.7 propose, second or nominate any eligible *member* for life membership.

16. Removal of persons from the premises of the club

16.1 Removal of persons from the premises of the club

The *secretary*, a senior employee, or an employee authorised by the *secretary* in writing to exercise such power, may:

16.1.1 refuse to admit to the *club*; or

16.1.2 may remove or cause to be removed from the *premises*, and impose terms of exclusion on,

certain persons (including *members*) in accordance with the *Liquor Act*.

Liquor Act Commentary

Persons who may be refused admission to or removed from the *club's premises* include any person:

- who is then intoxicated, violent, quarrelsome or disorderly;
- whose presence on the premises of the *club* renders the *club* or the *secretary* liable to a penalty under the *Registered Clubs Act*;
- who smokes, within the meaning of the *Smoke-free Environment Act 2000*, while on any part of the *premises* that is a smoke-free area within the meaning of that Act;
- who uses, or has in his or her possession, while on the *premises* any substance that the *secretary* or employee of the *club* suspects of being a prohibited plant or a prohibited drug within the meaning of the *Drug Misuse*

- *and Trafficking Act 1985*, or
whom the *club*, under the conditions of its certificate of registration, or a term (of the kind referred to in section 76A (1)) of a local liquor accord, is authorised or required to refuse access to the *club*. s77

A person who has been refused admission or has been removed due to them being intoxicated, violent, quarrelsome or disorderly must not enter or seek to re-enter for 24 hours of being refused or turned out, and must not enter or seek to re-enter the vicinity of the premises for 6 hours.

16.2 Subsequent refusal or removal

If a person (including a *member*) has been refused admission to, or has been removed from the *premises* of the *club* under clause 16.1, the *secretary*, a senior employee, or an employee authorised by the *secretary* in writing to exercise such power, may at any subsequent time:

16.2.1 refuse to admit that person into the *premises*; or

16.2.2 remove or cause the person to be removed from the *premises*.

16.3 Reasonable force

For the purpose of clause 16.2.2 such reasonable force as may be necessary may be used to remove a person from the *premises*.

17. Application of property on dissolution

17.1 Member's liability

The liability of the *members* is limited as set out in this clause 17.

17.2 Member's guarantee

Each *member* undertakes to contribute an amount not exceeding \$5 if the *club* is wound up:

17.2.1 while they are a *member*; or

17.2.2 within one year of the date that they cease to be a *member*.

17.3 Application of contribution

The contribution referred to in clause 17.2 shall be for the:

17.3.1 payment of the debts and liabilities of the *club* contracted before the *member* ceased to be a *member*; and

17.3.2 costs, charges and expenses of winding up.

17.4 Surplus on winding up

If the *club* is wound up or dissolved and after the satisfaction of all the *club's* debts and liabilities, any property of the *club* remains, that property shall:

17.4.1 not be transferred, paid to or distributed among the *members*; and

- 17.4.2 as determined by ordinary resolution by the *eligible members*, be given or transferred to an institution or institutions within the local government areas of the City of Wollongong and the City of Shellharbour having objects similar to the objects of the *club* and which prohibit the distribution of its or their income and property amongst its or their members to an extent at least as great as is imposed on the *club*.

[We have modified from the existing memorandum which requires (at clause 7) that the assets be transferred to a registered charitable institution without indicating which level of voting is required]

17.5 Transfer to institutions

The institution or institutions referred to in clause 17.4.2 shall be determined by:

17.5.1 the *eligible members* in *general meeting* (by ordinary resolution) at or before the time of dissolution; or

17.5.2 the Supreme Court of New South Wales after the time of dissolution.

18. Board of directors

18.1 Composition of the board

The *board* shall consist of no more than 9 directors who must be *eligible members*.

18.2 President and other office holders

18.2.1 The *eligible members* will elect to the board:

- (a) 3 *board* positions of *president*, vice president, and treasurer; and
- (b) 6 ordinary *directors*.

18.3 Eligibility Criteria

18.3.1 Any *eligible member* is entitled to stand for and be elected or appointed to the *board* provided that they are not:

- (a) an employee of the *club*; or
- (b) currently under suspension pursuant to clause 15.

[Note: Currently ordinary members need to have been a member for 2 years. Did you still want to impose this limitation? This could be limiting your ability to attract appropriate directors]

18.4 Term of office

Each *director*, unless otherwise disqualified or removed from office, is to hold office until the conclusion of the next *AGM* following the date of the *director's* election, but is eligible for re-election.

18.5 Casual vacancies

If a casual vacancy occurs on the *board*:

- 18.5.1 the *board* may appoint an *eligible member* to fill the vacancy;
- 18.5.2 a person who fills a casual vacancy shall, unless otherwise disqualified, hold office until the next *AGM*; and
- 18.5.3 the vacancy caused at a *general meeting* by a person ceasing to hold office shall be filled by election at the *general meeting* and the person elected shall, unless otherwise disqualified, hold office for the residue of the term of office of the person who caused the casual vacancy initially filled by the person who ceased to hold office at the *general meeting*.

19. Election of the board

19.1 Procedure

The election of the *board* shall be conducted in the following manner:

- 19.1.1 notice of the date and time of the last *day* for receiving nominations for election to the *board* (*board nominations*) shall be prominently posted on the *notice board* at least 35 *days* prior to the date fixed for the *AGM* and shall remain on the *notice board* until nominations close;
- 19.1.2 nominations for the election to the *board* (*board nominations*) will close on the *day* that is 21 *days* prior to the date fixed for the *AGM* and *board nominations* must be delivered to the *secretary* on or before that *day*;
- 19.1.3 *board nominations* must be in writing in the form required by the *board* from time to time and signed by 2 *ordinary members* who are *financial members* (who have been so for not less than 2 years immediately preceding the nomination) or *life members* and by the nominee;
- 19.1.4 a list of the candidate's names in random order, together with the relevant proposers' names and the *board* positions nominated for must be displayed on the *noticeboard* for at least 20 *days* prior to the *AGM*;

[Note: We have reduced by 1 day from existing clause 26.3, so that the names can be posted the next day after nominations close]

- 19.1.5 if there are less *board nominations* than available positions on the *board*:
 - (a) those candidates who are nominated shall be declared elected;
 - (b) the *board* may call for nominations at the *AGM*;
 - (c) the remaining positions may be filled by *eligible members* nominated by *eligible members*, and elected in accordance with clause 19.1.5(a), 19.1.6 and 19.1.7;
 - (d) if there are insufficient nominations at the *AGM* to fill the positions then the *board* may appoint any eligible person to fill a vacancy in the *board* either at or after the *AGM*;

- 19.1.6 if there is an equal amount of *board nominations* to available positions on the *board*, then those candidates who are nominated shall be elected; and
- 19.1.7 if there are more *board nominations* than available positions on the *board*, then an election by secret ballot of the *eligible members* for the *board* shall be conducted in such a manner as may be determined by the *board*. The power of the *board* to make *by-laws* shall extend to *by-laws* regulating all matters in connection with the election of the *board*.

[Note: We have removed clause 26.9 'At the first meeting of the board following the AGM the board shall elect from amongst their number the officers of the club not otherwise directly elected.' We understand that there are no such other officers].

20. Powers of the board

20.1 General powers

The *board* shall:

- 20.1.1 oversee the business and affairs of the *club* and the custody and control of its property and funds; and
- 20.1.2 exercise its powers and do all such things that the *club* is by this constitution or otherwise authorised to exercise and do and which is not required to be exercised by the *club* in *general meeting*.

Corporations Act Commentary

A number of matters cannot be determined by the *board* and must be approved by the members in *general meeting* including:

- changes to the *club's* constitution – s 136
- changes to the *club's* name – s 157
- change of company type – s 162(1)(a)
- variation or cancellation of the rights of members – s 246B
- issue of shares amounting to a variation of class rights – s 246C
- share issues by public companies to related parties – Chapter 2E
- certain share buybacks – s 257B
- reductions of share capital – s 256B
- cancellation of forfeited shares – s 258D
- removal of *directors* – s 203D
- appointment and removal of auditors – ss 327 and 329
- the giving of a financial benefit by the *club* to a related party – s208
- winding up of the *club* – s 461(1)(a)

20.2 Specific powers

Without limiting the general powers in clause 20.1, the *board* will have the following powers from time to time:

- 20.2.1 subject to clause 38, to make, amend and repeal any *by-laws* not inconsistent with this constitution that are in the opinion of the *board*, necessary or desirable for the proper conduct and management of the *club* including in respect of *guests*;

- 20.2.2 subject to clause 38, to enforce or procure the enforcement of all *by-laws* by suspension from enjoyment of the *club* privileges or any of them or otherwise as the *board* thinks fit.
- 20.2.3 to purchase or otherwise acquire for the *club* any property rights or privileges which the *club* is authorised to acquire at such price and generally on such terms and conditions as it shall think fit;
- 20.2.4 to secure the fulfilment of any contract or arrangement entered into by the *club* by mortgaging or charging all or any of the property of the *club* as it shall think fit;
- 20.2.5 to institute, conduct, defend, compound or abandon any legal proceedings by or against the *club* or its *officers* or otherwise concerning the affairs of the *club* and also to compound or allow time for payment and satisfaction of any debts due to any *claims* by or against the *club* and to refer any *claims* by or against the *club* to mediation or arbitration and to observe and perform the award;
- 20.2.6 to determine who is entitled to sign or endorse on the *club's* behalf contracts, receipts, acceptances, cheques, bills of exchange, promissory notes and other documents or instruments;
- 20.2.7 to invest and deal with any of the moneys of the *club* not immediately required for the purposes of the *club* upon such securities and in such manner as the *board* may think fit and from time to time to vary or realise such investments;
- 20.2.8 from time to time at its discretion to borrow or secure the payment of any sum of money for the purposes of the *club* and raise or secure the payment of such sum in such manner and upon such terms and conditions in all respects as it shall think fit and to give security including by way of mortgage and/or charge on or over all or any part of the *club's* property, both present and future;
- 20.2.9 to sell, lease, exchange or otherwise dispose of any furniture, fittings, equipment, plant, goods, land, buildings or other property rights belonging to the *club* or to which the *club* may be entitled from time to time, subject to the provisions of this constitution and the *Registered Clubs Act*;

Registered Clubs Act Commentary
<p>The <i>club</i> must not dispose of any core property (being real property owned or occupied by the <i>club</i> comprising the defined premises of the <i>club</i>, and facility provided by the <i>club</i> for the use of its <i>members</i> and guests or any other property declared by resolution of <i>members</i> to be core property) of the <i>club</i> unless:</p> <p>(a) the disposal has first been approved at a <i>general meeting</i> of the <i>ordinary members</i> of the <i>club</i> at which a majority of the votes cast supported the approval;</p> <p>(b) the disposal is by way of public auction or open tender conducted by an independent real estate agent or auctioneer (subject to the requirements of any other Act or law), and</p> <p>(c) in the case of a sale of land, the <i>club</i> has first obtained a valuation of the land from a registered valuer within the meaning of the <i>Valuers Act 2003</i> .</p> <p>-s41J</p>

'Dispose' means to sell, lease or license the property or otherwise deal with the property as may be prescribed by the *Registered Clubs Regulation*.

s471 of the *Registered Clubs Regulation* sets out exemptions from the provisions of s41J.

20.2.10 to appoint, discharge and arrange the duties and powers of the *secretary*, to determine the remuneration and terms of employment of the *secretary*, and to specify and define the duties of the *secretary*;

20.2.11 to set the *application fees* and *membership fees* payable by all *members*;

20.2.12 to fix the maximum number of person who may be admitted to each class of membership of the *club* in accordance with this constitution; and

20.2.13 to engage, appoint, control, remove, suspend and dismiss such managers, officers, representatives, agents and employees as it may from time to time think fit and determine the duties, pay remuneration or other entitlements;

20.2.14 to impose any restriction or limitation on the rights and privileges of a *member* or *guest* relating to their use of the *premises* or their behaviour or dress while on the *premises*;

20.2.15 to repay reasonably incurred actual out of pocket expenses incurred by any member of the *board*; and

20.2.16 to fix a charge for the use of the property or services of the *club* by its *members* and may at any time amend or remove such charges.

20.3 Core property

20.3.1 In addition to the *Registered Clubs Act* the *club* can *dispose* of core property only by:

- (a) a *special resolution* of the *ordinary members*; and
- (b) a resolution of not less than 75 percent of the *eligible members* present and entitled to vote at the meeting at which that *special resolution* is carried.

21. Committees

21.1 Committees

In addition to the powers in clause 20.1 and 20.2, the *board* shall have power from time to time to delegate any of its powers to committees consisting of any combination of:

21.1.1 a *director*;

21.1.2 a *member*;

21.1.3 an employee; or

21.1.4 a person who is not a *member* but who has a particular skill or expertise which they will apply to a committee.

The *board* shall also have the power from time to time to revoke or alter any such delegation.

21.2 Operation of committee

Any committee formed under clause 21.1 shall, in the exercise of the powers so delegated, conform to any regulation or restriction that the *board* may from time to time impose.

21.3 President a member of all committees

The *president* shall be ex officio a member of all such committees and may nominate a *director* to represent them on such committees.

21.4 Meetings of committees

Any committee may meet and adjourn as it thinks proper.

Questions arising at any meeting of a committee shall be determined by a majority of votes of the *members* of the committee present and in the case of an equality of votes the chairperson of the meeting shall have a second and casting vote.

21.5 Minutes of meetings of committees

Any committee shall make minutes of its meetings and will forthwith submit those minutes to the *board* and the *board* will retain those minutes as if they were minutes of the *board*.

21.6 Acts of the board

All acts done by any meeting of the *board* shall, even if it is subsequently discovered that there was some defect in the appointment of the *board* or a member of the *board*, be valid as if every such person had been duly appointed and was qualified to be a member of the *board*.

[We have not expressly included the executive (clause 37 & 38). It is our view that a committee should not have the ability to make decisions and bind the other directors without those directors being present and entitled to vote on the issue – or alternatively by circulating resolution. However, if this is still desired, this clause 21 applies so that the executive comprises a committee]

22. Board meetings

22.1 Frequency and records of board meetings

22.1.1 The *board* must meet at least once in each *month* for the transaction of business of the *club*.

22.1.2 The *president* may at any time and the *secretary* upon the request of not less than 2 *directors* shall convene a meeting of the *board*.

22.1.3 A record of all *directors* present at each *board* meeting and minutes of all resolutions and proceedings of the *board* shall be entered in a minute book provided for that purpose.

22.2 Notice and quorum

22.2.1 Oral or written notice of each *board* meeting must be given by the *secretary* to each *director* at least 48 hours (or such other period unanimously agreed by the *directors*) before the time appointed for the holding of the meeting.

22.2.2 The notice given must specify the general nature of the business to be transacted at the meeting and no business other than that business is to be transacted at the meeting, except business which the *directors* present at the meeting unanimously agree to treat as urgent business.

22.2.3 The quorum for *board* meetings shall be 3 *directors* or such other number as determined by the *board* from time to time.

22.3 Continuing directors

The *board* may act despite any vacancy in the *board*, so long as the number of *directors* is not reduced below the quorum fixed in clause 22.2.3, however, *directors* may act where the quorum is not met for the purposes of:

22.3.1 increasing the number of *directors* to the quorum of the *board*; or

22.3.2 convening a *general meeting* of the *club*,

but for no other purpose.

22.4 Attendance at meetings

Without limiting the power of the *board* to regulate their meetings as they think fit, a meeting of the *board* may be held where one or more of the *directors* is not physically present at the meeting, provided that all persons participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously, whether by means of telephone or other form of communication.

22.5 Chairperson at board meetings

22.5.1 The *president* shall preside as chairperson at every meeting of the board.

22.5.2 If the *president* is not present or is unwilling or unable to act, then the vice president shall preside as the chairperson.

22.5.3 If a vice president is not present or is unwilling or unable to act, then the *directors* present shall elect a *director* to be the chairperson at the meeting.

22.6 Voting at board meetings

22.6.1 Questions arising at any *board* meeting shall be decided by a majority of votes and a determination by a majority of the *board* shall for all purposes be deemed a determination of the *board*.

- 22.6.2 If there is an equality of votes the chairperson of the meeting shall have a second and casting vote.
- 22.6.3 Proxy votes are not permitted at *board* meetings.
- 22.6.4 All acts done by any *board* meetings or by any person acting as *director*, notwithstanding that it is afterwards discovered that there was some defect in the appointment of a person to be a *director*, or to act as a *director*, or that a person so appointed was disqualified, as valid as if the person had been duly appointed and was qualified to be a *director*.

22.7 Written resolutions of the board

- 22.7.1 A resolution in writing signed by all *directors* or a resolution in writing of which notice has been given to all *directors* and which is signed by a majority of the *directors* entitled to vote on the resolution (not being less than the number required for a quorum at a meeting of the *board*) is a valid resolution of the *board*.
- 22.7.2 The resolution may consist of several documents in the same form each signed by one or more of the *directors*.
- 22.7.3 For the purposes of rule 22.7.1 the reference to “all *directors*” does not include a reference to:
- (a) a *director* who, at a meeting of *directors*, would not be entitled to vote on the resolution;
 - (b) a *director* who disqualifies himself or herself from considering the resolution in question; and
 - (c) any *director* on *approved leave*.
- 22.7.4 For the purposes of rule 22.7.1:
- (a) a statement sent electronically by a *director* to an agreed electronic address stating that they are in favour of a specified resolution shall be taken to be a document containing that statement and duly signed by the *director*. Such a document shall be taken to have been signed by the *director* at the time of its receipt at the agreed electronic address; and
 - (b) a *director* may consent to a resolution by telephoning the *Secretary* or *Chairperson* and signifying assent to the resolution and clearly identifying its terms.
- 22.7.5 A resolution in writing under this clause 22.7 shall be deemed to have been passed at a meeting of the *directors* held on the day and at the time at which the document was last signed or consented to by a *director* and the document shall be deemed to constitute a minute of that meeting and shall be recorded by the *Secretary* in the minute book maintained under clause 32.

22.8 Minutes

A record of all *directors* present at each *board* meeting and minutes of all resolutions and proceedings of the *board* shall be entered and maintained in records kept in accordance with clause 32.

23. Interests by directors

23.1 Declarations of interests

Any *director* who:

23.1.1 has a material personal interest in a matter that relates to the affairs of the *club*;

23.1.2 has or acquires a financial interest in respect of a hotel; or

23.1.3 receives any gift from an affiliated body if the value exceeds the amount prescribed by the *Registered Clubs Act*,

must give disclosure of the interest in accordance with the *Registered Clubs Act* and otherwise comply with that Act.

Registered Clubs Act Commentary
<p>If a <i>director</i> has a material personal interest in a matter that relates to the affairs of the <i>club</i>, they must declare the interest at a <i>board</i> meeting as soon as practicable after the relevant facts have come to the <i>director's</i> knowledge and if the interest relates to a matter that is being considered at the <i>board</i> meeting, the <i>director</i> must not vote on the matter, nor be present while the matter is being considered at the meeting – s41C</p> <p>If a <i>director</i> has or acquires a financial interest in respect of a hotel, they must give written declaration of the interest to the <i>secretary</i> within 14 <i>days</i> of acquiring the interest or becoming a <i>director</i> as the case may be – s41D</p> <p>If a <i>director</i> receives a gift from an affiliated body (as defined in the Act) of more than \$500, they must declare it to the <i>secretary</i> within 14 <i>days</i> of receipt – s41E</p> <p>A <i>director</i> must submit a written return each year to the <i>club</i> declaring gifts received by that <i>director</i> from a person or organisation that is party to a contract or commercial arrangement with the <i>club</i> – s41F</p>

23.2 General disclosure

A general notice that a *director* is a member of any specified firm or company and is to be regarded as interested in all transactions with that firm or company is sufficient declaration under clause 23.1 as regards such *director* and the said transactions. After such general notice it is not necessary for such *director* to give a special notice relating to any particular transaction with that firm or company.

23.3 Recording disclosures

Where a *director* has declared an interest under clause 23.1 or 23.2, the interest must be recorded in the *board* minutes.

23.4 Voting on declared interest

23.4.1 A *director* who has a declared interest under clause 23.1 or 23.2 cannot:

- (a) vote on that matter; or
- (b) be present while the matter is being considered by the meeting,

unless:

- (c) the interest does not need to be disclosed under the *Corporations Act* or the *Registered Clubs Act*;
- (d) the *directors* who do not have a material personal interest in the matter have passed a resolution that:
 - (i) identifies the *director*, the nature and extent of the *director's* interest in the matter and its relation to the affairs of the *club*; and
 - (ii) states that those *directors* are satisfied that the interest should not disqualify the *director* from voting or being present; or
 - (iii) ASIC has declared under the *Corporations Act* that s 195 should not apply in the particular case.

23.4.2 If there are not enough *directors* to form a quorum for a *board* meeting because of clause 23.1 or 23.2, 1 or more of the *directors* (including those who have a material personal interest in that matter) may call a *general meeting* and the *general meeting* may pass a resolution to deal with the matter.

Corporations Act Commentary

The same prohibition and exceptions are contained in ss 191 and 195 of the *Corporations Act*. These sections also provide additional information on conflicts of interest and the circumstances in which conflicted directors may still participate.

23.5 Register of declarations of interests

The *secretary* must keep a register of disclosures, declarations and returns made to the *club* under Division 2 of the *Registered Clubs Act*, as required by the *Registered Clubs Act*.

24. Contracts with directors and secretary

24.1 Contracts with directors

Subject to the *Registered Clubs Act*, the *club* must not enter into a commercial arrangement or a contract with a *director* or with a company or other body in which a director has a pecuniary interest, unless the proposed commercial arrangement or contract is first approved by the *board*.

Registered Clubs Act Commentary

'Pecuniary interest' is not defined in the Act.

This clause does not apply to a pecuniary interest if there are guidelines prescribed by the *Registered Clubs Regulation* and in force at the time the relevant contract is entered into that include provisions to the effect that pecuniary interests of the type concerned are not pecuniary interests to which the subsection applies.

As at 1 August 2019 there are no guidelines prescribed by the *Registered Clubs Regulation* - s41K

24.2 Effect of disclosure of director contracts

Provided that clauses 22.7.1 and 24.1 have been complied with:

- 24.2.1 the *director* shall not be disqualified from office by reason of his or her interest in that commercial arrangement or contract;
- 24.2.2 the commercial arrangement or a contract shall not, by reason of that *director's* interest, be avoided; and
- 24.2.3 the *director* shall not be liable to account to the *club* for any profit realised by that commercial arrangement or contract.

24.3 Contracts with the secretary

- 24.3.1 Except as permitted by the *Registered Clubs Act*, the *club* must not enter into a commercial arrangement or contract for the provision of goods or services with:
 - (a) the *secretary*; or
 - (b) any close relative of the *secretary*; or
 - (c) any company or other body in which the secretary or a close relative of the *secretary* has a controlling interest.

Registered Clubs Act Commentary

'Close relative' and 'controlling interest' have the meanings given to them in ss 41B and 41L.

- 24.3.2 Clause 24.3.1 does not prevent the *club* entering into a contract with any of the above persons which is:
 - (a) a contract of employment; or
 - (b) a contract permitted by the *Registered Clubs Act*.

Registered Clubs Act Commentary

The *club* is not prevented from entering into contracts as a result of an open tender process conducted by the *club* if the *premises* where the goods and services are to be provided are not situated in the metropolitan area.

'metropolitan area' includes the statistical local area of Wollongong (Statistical Local Area 8450, and includes the *premises* - s41L of the Act and s47J of the *Registered Clubs Regulation*

25. Removal of directors from office

25.1 Removal by members in general meeting

The *ordinary members* in *general meeting* may by ordinary resolution:

- 25.1.1 remove from office any *director*, *directors* or the whole of the *board* before the expiration of their period of office; and
- 25.1.2 appoint another person or persons in their stead provided any person so appointed is eligible to be a *director* in accordance with this constitution.

Any person appointed pursuant to this clause 25.1 shall hold office during such time only as the person whose place they are appointed would have held if they had not been so removed.

25.2 Notice requirements

Notice of the intention to move a resolution to remove a *director* of the *board* from office must be given to the *club* at least *2 months* before the meeting at which the resolution is to be considered and voted on.

Corporations Act Commentary
s203D sets out the procedure required in relation to a meeting contemplated by this clause.

25.3 Representations

25.3.1 If a *director* to whom a proposed resolution relates makes representations in writing to the *secretary* or *president* (not exceeding a reasonable length) and requests that the representations be notified to the *members* of the *club*, the *secretary* or the *president* may send a copy of the representations to each *member* entitled to vote at the meeting at which the resolution is to be considered.

25.3.2 If the representations are not sent, the *director* can require that they be read out at the meeting.

26. Vacancies on board

26.1 Automatic vacancy of office

The office of a *director* of the *board* shall automatically be vacated if the person holding that office:

- 26.1.1 becomes insolvent;
- 26.1.2 becomes disqualified from holding office under the *Corporations Act*;

Corporations Act Commentary
s206B sets out the circumstances where a person will be disqualified from managing a corporation

- 26.1.3 dies, becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- 26.1.4 is absent from meetings of the *board* for a continuous period of 3 *months* without leave of absence from the *board* and the *board* resolves that the office be vacated;
- 26.1.5 is directly or indirectly interested in any contract or proposed contract with the *club* and fails to declare the nature of the interest as required by the *Corporations Act*;
- 26.1.6 by notice in writing given to the *secretary* resigns from office as a *director*;
- 26.1.7 is disqualified from holding office as a *director* pursuant to any order or declaration made under the *Registered Clubs Act*;
- 26.1.8 is convicted of an offence on indictment;
- 26.1.9 ceases to be a *member* of the *club*;
- 26.1.10 is suspended from being a *member* of the *club*;
- 26.1.11 becomes an employee of the *club*; or
- 26.1.12 is removed from office in accordance with this constitution.

26.2 Casual vacancies

- 26.2.1 The *board* may appoint any eligible *member* to the *board* to fill a casual vacancy and the person so appointed shall hold office until the next *AGM*.
- 26.2.2 A casual vacancy in the office of *president* shall be filled by either of the vice presidents and a casual vacancy in the office of vice president shall be filled by a member of the *board* elected by the *board* by simple majority.

27. General meetings

27.1 General meetings

- 27.1.1 A *general meeting* called the *AGM* shall be held once at least in every calendar year at such time and place as may be determined by the *board* but within 5 *months* of the close of the *financial year*.
- 27.1.2 All meetings other than *AGMs* shall be called *general meetings*.

27.2 Calling of general meetings

The *board*:

- 27.2.1 may whenever it considers fit call and arrange to hold a *general meeting* of the *club*; and
- 27.2.2 must call and arrange to hold a *general meeting* of the *club* on a request that complies with clause 27.3 of:
 - (a) *members* with at least 5% of the votes that may be cast at the *general meeting*; or
 - (b) at least 100 *members* who are entitled to vote at the *general meeting* ('*request*').

27.3 Request for general meeting

A *request* must:

- 27.3.1 be in writing;
- 27.3.2 state the object of the *general meeting*;
- 27.3.3 state any resolution to be proposed at the *general meeting*;
- 27.3.4 be signed by the *members* making the *request*; and
- 27.3.5 be given to the *secretary*.

Separate copies of a document setting out the *request* may be used for signing by the *members* if the wording of the *request* is identical in each copy.

27.4 Board must call general meeting

- 27.4.1 The *board* must call the *general meeting* within 21 *days* after the *request* is given to the *secretary*.
- 27.4.2 The *general meeting* is to be held not later than 2 *months* after the *request* is given to the *secretary*.

27.5 Members may call general meeting

- 27.5.1 Any one or more of the *members* who made the *request* may call and arrange to hold a *general meeting* if the *board* do not do so within 1 *month* after the *request* is given to the *secretary*.
- 27.5.2 A meeting called by the *members* under this clause must be called in the same way, so far as is possible, in which *general meetings* of the *club* are to be called and must be held not later than 3 *months* after the *request* is given to the *secretary*.

27.6 Obligations of club when general meeting called by members

If the *members* propose to call a meeting under clause 27.5, the *club* must:

- 27.6.1 promptly provide a copy of the *register of members* without charge;

27.6.2 pay the reasonable costs and expenses of the *members* incurred because the *board* failed to call and arrange to hold the meeting.

27.7 Recovery from directors

The *club*:

27.7.1 may recover the amounts paid under clause 27.6.2 from the *directors* of the *club* and the *directors* are jointly and severally liable for these amounts; and

27.7.2 cannot recover any amount paid under clause 27.6.2 from a *director* if that *director* proves that they took all reasonable steps to cause the *board* to comply with clause 27.4.

27.8 Notice of AGMs

At least 14 days' notice in writing of an *AGM* must be given:

27.8.1 to all *members* who are entitled to attend at that meeting; and

27.8.2 to the auditor.

27.9 Notice of general meetings

At least 14 *days*' notice in writing of an *AGM* or a *general meeting* must be given:

27.9.1 to all *members* who are entitled to attend at that meeting; and

27.9.2 to the auditor.

27.10 Requirements for notice of general meetings

A notice of a *general meeting* of the *club's members* must comply with the *Corporations Act*.

Corporations Act Commentary

s249L(1) requires that a notice of *general meeting* must:

(a) set out the place, date and time for the meeting (and, if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this);

(b) state the general nature of the meeting's business; and

(c) if a *special resolution* is to be proposed at the meeting--set out an intention to propose the *special resolution* and state the resolution.

27.11 Notice of general meeting of members to be placed on notice board

A copy of a notice of a *general meeting* of the *members* of the *club* must be posted on the *notice board* for a period of not less than 14 *days* prior to the date of the meeting, and in the case of an *AGM*, not less than 28 *days*.

27.12 Effect of failure to give notice

The:

27.12.1 accidental omission to give notice of a meeting;

27.12.2 the non-receipt by any person of notice of a meeting; or

27.12.3 the omission to post a copy of a notice of the meeting on the *notice board*,

shall not invalidate any proceedings at a *general meeting* unless such proceedings are declared void pursuant to the *Corporations Act*.

Corporations Act Commentary

The Court may, on the application of the person concerned, a person entitled to attend the meeting or ASIC, order that proceedings at the meeting are void - s1322
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28. Annual general meeting

28.1 Business of the AGM

The business of the *AGM* shall be as follows:

28.1.1 to confirm the minutes of the previous *AGM* and any *general meeting* held since that meeting;

28.1.2 to receive and consider the reports, statements and accounts required to be submitted to *members* under the *Corporations Act*;

28.1.3 where required, to conduct elections of the *board* or declare the result of such election;

28.1.4 to appoint an auditor or auditors in the event that there is a vacancy in the office of auditor; and

28.1.5 to deal with any other business of which due notice has been given to the *members*.

28.2 Member participation in annual general meeting

The chairperson of the *AGM* must allow a reasonable opportunity for the *members* as a whole at the meeting:

28.2.1 to ask questions about or make comments on the management of the *club*; and

28.2.2 if the *club's* auditor or a representative of the *club's* auditor is at the meeting, to ask the auditor or the auditor's representative questions relevant to the conduct of the audit and the preparation and conduct of the auditor's report.

29. Members' resolutions

29.1 Members may submit items of business for AGM

29.1.1 *Members* may submit items of business and notices of motion which they wish to have included in the business of the AGM.

29.1.2 All such items of business and notices of motion must be in writing and received by the *secretary* at least 30 *days* prior to the date fixed for the AGM.

29.2 Notice of items of business for annual general meeting

The *secretary* shall forward all items of business and notices of motion referred to in clause 29.1 to the *board* and the *board* shall have absolute discretion as to whether to include those items of business and/or notices of motion in the notice of the AGM that is sent to *members*.

29.3 Resolutions by members

The following *members* may give the *secretary* notice of a resolution that they propose to move at a *general meeting*:

29.3.1 *members* with at least 5% of the votes that may be cast on the resolution; or

29.3.2 at least 100 *members* who are entitled to vote at a *general meeting*.

The percentage of votes that *members* have is to be worked out as at the midnight before the *members* give the notice to the *secretary*.

29.4 Notice of resolution

The notice in clause 29.3 must:

29.4.1 be in writing;

29.4.2 set out the wording of the proposed resolution; and

29.4.3 be signed by the *members* proposing to move the resolution.

Separate copies of a document setting out the notice may be used for signing by *members* if the wording of the notice is identical in each copy.

29.5 Resolution to be considered at general meeting

If the *secretary* has been given notice of a resolution under clause 29.3, the resolution must be considered at the next *general meeting* that occurs more than 2 *months* after the notice is given.

29.6 Notice to be given of resolution

The *club* must give all of its *members* notice of the resolution at the same time, or as soon as practicable afterwards, and in the same way, as it gives notice of a *general meeting*.

29.7 Liability for costs of giving notice of resolution

29.7.1 The *club* is responsible for the cost of giving *members* notice of the resolution if the *club* receives the notice in time to send it out to *members* with the notice of meeting.

29.7.2 The *members* requesting the resolution are jointly and separately liable for the expenses reasonably incurred by the *club* in giving *members* notice of the resolution if the *club* does not receive the *members'* notice in time to send it out with the notice of meeting, however at a *general meeting*, the *members* present and entitled to vote may resolve that the *club* meet the expense itself.

29.8 Defective resolutions

The *club* need not give notice of any resolution:

29.8.1 if it is more than 1,000 words long;

29.8.2 if it is defamatory;

29.8.3 if it is contrary to the constitution or law; or

29.8.4 if the *members* making the request are to bear the expenses of sending the notice out – unless the *members* give the *club* a sum reasonably sufficient to meet the expenses that it will reasonably incur in giving the notice.

29.9 Statement by members

29.9.1 *Members* may request the *club* to give to all of its *members* a statement provided by the *members* making the request about:

- (a) a resolution that is proposed to be moved at a *general meeting*;
or
- (b) any other matter that may be properly considered at a *general meeting*.

29.9.2 The request must be made by:

- (a) *members* with at least 5% of the votes that may be cast on the resolution; or
- (b) at least 100 *members* who are entitled to vote at the meeting.

29.9.3 The percentage of votes that *members* have is to be worked out as at the midnight before the request is given to the *secretary*.

29.10 Request by members

A request under clause 29.9 must be:

29.10.1 in writing; and

29.10.2 signed by the *members* making the request; and

29.10.3 given to the *secretary*.

Separate copies of a document setting out the request may be used for signing by *members* if the wording of the request is identical in each copy.

29.11 Notice of the request

29.11.1 After receiving the request, the *club* must distribute to all its *members* a copy of the statement at the same time, or as soon as practicable afterwards, and in the same way, as it gives notice of a *general meeting*.

29.11.2 The *club* is responsible for the cost of making the distribution if the *secretary* receives the statement in time to send it out to *members* with the notice of meeting.

29.11.3 The *members* making the request are jointly and individually liable for the expenses reasonably incurred by the *club* in making the distribution if the *club* does not receive the statement in time to send it out with the notice of meeting. At a *general meeting*, the *club* may resolve to meet the expenses itself.

29.11.4 The *club* need not comply with the request:

- (a) if the statement is more than 1,000 words long or defamatory; or
- (b) if the *members* making the request are responsible for the expenses of the distribution – unless the *members* give the *club* a sum reasonably sufficient to meet the expenses that it will reasonably incur in making the distribution.

30. Auditor

30.1 Auditors shall be appointed, nominated, removed, retire, resign and any fees, expenses, powers and duties shall be in accordance with all provisions of the *Registered Clubs Act* or any other law.

30.2 The *club's* auditor shall be given notice of all *general meetings* at the same time as such notice is given to the *members* and is entitled to attend any *general meeting* of the *club*.

30.3 The auditor is entitled to be heard at the meeting on any part of the business of the meeting that concerns the auditor in their capacity as auditor.

30.4 The auditor is entitled to be heard even if:

30.4.1 the auditor retires at the meeting; or

30.4.2 the meeting passes a resolution to remove the auditor from office.

30.5 The auditor may authorise a person in writing as their representative for the purpose of attending and speaking at any *general meeting*.

31. Procedure at general meetings

31.1 President

- 31.1.1 The *president* shall, if present, preside at all *general meetings* of the *club* as chairperson.
- 31.1.2 If the *president* is not present within 30 minutes after the time appointed for holding the meeting or is unwilling or unable to act then either of the vice presidents shall preside as chairperson of the meeting.
- 31.1.3 If a vice president is not present within 15 minutes after the time appointed for holding the meeting or is unwilling or unable to act, then the *members* of the *club* present shall elect a member of the *board* to preside as chairperson of the meeting.

31.2 Quorum

- 31.2.1 No business shall be transacted at any *general meeting* of *members* unless a quorum of *members* is present.
- 31.2.2 At any *general meeting* of the *club* (including an *AGM*), 20 *eligible members* present in person and eligible to vote shall be a quorum.

31.3 Quorum not present

If a quorum is not present within 30 minutes after the time appointed for the commencement of the meeting, the meeting shall:

- 31.3.1 be dissolved if it was convened at the request of *members* pursuant to clause 27.5; or
- 31.3.2 stand adjourned to the same *day* in the next week at the same time and place.

31.4 Quorum at adjourned meeting

If at any meeting adjourned pursuant to clause 31.3.2 a quorum is not present, the *eligible members* present shall be a quorum and may transact any business for which the meeting was called.

31.5 Voting at general meetings

- 31.5.1 Subject to clause 31.5.2, only *eligible members* are entitled to vote at a *general meeting* of the *club*.
- 31.5.2 All *ordinary members* are entitled to vote at *general meetings* on:
- (a) the election of *directors* (including in any ballot or voting process for the election prior to the *general meeting*);
 - (b) a resolution to approve the disposal of *core property*; and
 - (c) a resolution to modify or repeal the constitution,

provided that no *member* of the *club* who is also an employee of the *club* shall be eligible to vote at any *general meeting* of the *club*.

31.6 Voting at general meeting

Every question submitted to a meeting other than a *special resolution* shall be decided by a simple majority of votes from those *members* who are entitled to vote, present and voting and counted on a show of hands except:

31.6.1 the election of the *board*; or

31.6.2 the election of any *officer*,

which shall be by ballot.

31.7 Matters on which a poll may be demanded

A poll may be demanded on any resolution by:

31.7.1 at least 5 *members* entitled to vote on the resolution;

31.7.2 *members* with at least 5% of the votes that may be cast on the resolution on a poll; or

31.7.3 the *president*.

31.8 When poll can be demanded

The poll may be demanded:

31.8.1 before a vote is taken;

31.8.2 before the voting results on a show of hands are declared; or

31.8.3 immediately after the voting results on a show of hands are declared.

The percentage of votes that *members* have is to be worked out as at the midnight before the poll is demanded.

31.9 Chairperson's casting vote

In the case of an equality of votes whether on a show of hands or on a ballot, the chairperson of the meeting shall have a second or casting vote.

31.10 Declaration by chairperson

At any *general meeting* a declaration by the chairperson that a resolution has been carried or carried by a particular majority or lost or not carried by a particular majority and an entry to that effect in the book containing the minutes of the proceedings of the *club* shall be conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour of or against such resolution.

31.11 Proxy voting prohibited

A person shall not:

31.11.1 attend or vote at any meeting of the *club* or of *the board* or of any committee; or

31.11.2 vote at an election including an election of a *member* or of the *board*;

as the proxy of another person.

31.12 Adjournment of general meeting

31.12.1 The chairperson of a meeting may with the consent of the meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to place.

31.12.2 No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

31.13 Effect of resolutions

A resolution passed at a meeting resumed after an adjournment shall for all purposes be treated as having been passed on the date when it was in fact passed and shall not be deemed to have been passed on any earlier date.

31.14 Notice of adjourned meeting

It is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

32. Minutes

32.1 Record of minutes

The *club* must keep minute books in which it records:

32.1.1 proceedings and resolutions of *general meetings* of the *club*;

32.1.2 proceedings and resolutions of meetings of the *directors* of the *club* (including meetings of a committee of directors); and

32.1.3 resolutions passed by *directors* without a meeting.

32.2 Minutes to be signed

The *club* must ensure that:

32.2.1 minutes of a meeting of the *club* or the *board* are signed within a reasonable time after the meeting by the chairperson of the meeting or the chairperson of the next meeting; and

32.2.2 minutes of the passing of a resolution without a meeting are signed by a *director* within a reasonable time of the date on which the resolution is passed.

32.3 True record

A minute that is recorded and signed under this clause is evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proved.

Corporations Act Commentary

S 251A contains the provisions that require the keeping of minutes.

S 251B minute books of *company* meetings (not *board* meetings) and resolutions of the *club* passed without a meeting must be open for inspection by *members* free of charge.

33. Accounts

33.1 Accounts and records

The *board* must cause proper accounts and records to be kept with respect to the financial affairs of the *club* in accordance with the *Corporations Act* and the *Registered Clubs Act*.

Registered Clubs Act Commentary

The *club* must record the information specified in s47HA(2) – s 47HA(1)(a) of the *Registered Clubs Regulation*.

The *club* must make the specified information available to the *members* within 4 months of the end of the *financial year* and displaying a notice how the members can access the information and provide a copy to any *member* or the Director on request – s 47HA(1)(b)-(d) of the *Registered Clubs Regulation*

S47HA(2) of the *Registered Clubs Regulation* sets out the information to be recorded by the *club*.

33.2 Location of books of account

The books of account shall be kept at the *office* or at such other place as the *board* thinks fit.

The *club* shall at all reasonable times make its accounting records available in writing for the inspection of members of the *board* and any other persons authorised or permitted by or under the *Corporations Act* to inspect such records.

33.3 Annual financial records

The *board* must, at least 21 *days* before each *AGM* and in any event within 4 *months* of the end of the *financial year* make available to all *ordinary members* a copy of all reports required by the *Corporations Act* using the methods permitted by the *Corporations Act*.

Corporations Act Commentary

The *board* is required to provide members with either a full or concise report of the following for the year:

- (a) the *financial report*;
- (b) the *director's report*; and
- (c) the *auditor's report*.

(these terms having the meaning given to them in the Act) - s314
- s 315

33.4 Reports to members

The *club* must comply with its reporting requirements under the *Registered Clubs Act*.

Registered Clubs Act Commentary
The <i>club</i> must send to each of its <i>members</i> within 4 <i>months</i> of the end of the <i>financial year</i> the information listed in s47H of the Registered Clubs Regulation.

34. Records of members and guests

34.1 Registers of members and guests

The *club* must keep separate registers of *members* and *guests* in accordance with the *Registered Clubs Act*:

Registered Clubs Act Commentary
The <i>club</i> must keep the following registers for a period of at least 3 years: <ul style="list-style-type: none">• a register of <i>ordinary and life members</i>, containing the full name, occupation and address of each <i>ordinary and life member</i>, as well as the date on which they last paid the annual <i>membership fee</i>. ss30(2)(i), 31(1)(a).• a register of persons aged over the age of 18 years who enter the <i>premises</i> as <i>guests</i> of <i>members</i> containing the full name, or surname and initials, address and signature of each person. ss30(2)(k), 31(1)(c)• a register of <i>temporary members</i> other than <i>temporary members</i> referred to in clause 14.1.4 containing the full name or surname and initials, and address of each <i>temporary member</i>. ss30(2)(l), 31(1)(d)• a register of <i>temporary members</i> referred to in clause 14.2 containing the full name, or surname and initials, address and signature of each <i>temporary member</i>. ss 30(2)(m), 31(1)(e)

34.2 Change of member address

Members must advise the *secretary* in writing of any change in their address within 7 *days* of changing their address as recorded in the *register*.

The most recent address as is provided to the *club* in writing shall be deemed to be a *member's* address for the purpose of issue of notices.

35. General financial matters

35.1 Financial year

The *financial year* of the *club* and other entities created under this constitution shall commence on the first *day* of July in each year and end on the last *day* of June in the following calendar year or such other period as the *board* may determine, having regard to the *Corporations Act*.

35.2 Auditors

Auditors shall be appointed and their duties regulated in accordance with the *Corporations Act* and their remuneration shall be fixed by the *board*.

Corporations Act Commentary
Part 2M.4 regulates the appointment and removal of auditors.

36. Indemnity to officers

36.1 Indemnity

Every *officer* and former *officer* of the *club* shall be indemnified to the fullest extent permitted by the *Corporations Act* out of the property of the *club* against any liability incurred by them in their capacity as *officer* in defending any proceedings whether civil or criminal.

36.2 Officer's insurance

The *club* may pay a premium for a contract insuring a person who is an *officer* or a former *officer* of the *club* against a liability incurred by that person as an *officer* of the *club* provided that the liability is not one in respect of which a premium cannot be paid under the *Corporations Act* or a liability which contravenes s199A or s199B of the *Corporations Act*.

Corporations Act Commentary
'Officer' has the meaning given to it in the Act and includes a <i>director</i> or the <i>secretary</i> .
The <i>club</i> must not indemnify an <i>officer</i> in respect of a liability: (a) owed to the <i>club</i> by the <i>officer</i> ; (b) for pecuniary penalty order under the <i>Corporations Act</i> ; (c) owed to someone other than the <i>club</i> and did not arise out of conduct in good faith - s199A
The <i>club</i> must not pay a premium for a contract for an <i>officer</i> in respect of: (a) conduct involving a wilful breach of duty in relation to the <i>club</i> ; or (b) contravention of 182 or 183 (improper use of position or improper use of information) - s199B

37. Company secretary

- 37.1 The *board* may appoint a *Secretary* and determine the terms of that appointment and the duties and responsibilities of that position, including compliance with the *Corporations Act*.
- 37.2 No payment or part-payment of the remuneration of the *secretary* shall be made by way of commission or allowance from or upon the receipt of the *club* for liquor supplied.

38. By-laws

38.1 Board to formulate by-laws

The *board* may formulate, approve, issue, adopt, interpret and amend such by-laws, regulations and policies for the proper advancement, management and administration of the *club* and the advancement of the objects of the *club* as it thinks necessary or desirable. Such *by-laws* must be consistent with this constitution.

38.2 By-laws binding

All *by-laws* made under this clause will be binding on the *club* and *members*.

38.3 By-laws deemed applicable

All *by-laws*, regulations and policies of the *club* in force at the date of the approval of this constitution under the *Corporations Act* insofar as such *by-laws*, regulations and policies are not inconsistent with, or have been replaced by this constitution, are *by-laws* under this rule.

38.4 Notices binding on members

38.4.1 Amendments, alterations, interpretations or other changes to by-laws will be advised to *members* by means of notices approved by the *board*.

38.4.2 Any *by-law* made under this clause 39 shall come into force and be fully operative upon the posting of an appropriate notice containing the *by-law* on the *notice board*.

38.5 Copy of by-laws available to members

The *board* shall make available a copy of the *by-laws* to any *member* on request and without charge to that *member*.

39. Seal and execution of documents

39.1 Club seal

The *club* may have a seal and the *board* must provide for the safe custody of the seal.

If the *club* chooses to have a seal, the seal shall never be used except by the authority of the *board* previously given, and in the presence of at least two *directors* who shall sign every instrument to which such seal is affixed, and every instrument to which such seal is affixed shall also be countersigned by the *secretary* or a third *director*.

39.2 Execution of documents

The *club* may execute any document as permitted by the *Corporations Act*.

39.3 Cheques, etc

39.3.1 All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by any 2 *directors* or employees of the *club*, being *directors* or employees authorised to do so by resolution of the *board*.

Corporations Act Commentary
s 127(1) provides that a public company may execute a document without a common seal if the document is signed by: (a) 2 directors of the company; or (b) a director and a company secretary of the company
s 127(2) provides that a public company with a common seal may execute a document if the seal is fixed to the documents and the fixing of the seal is witnessed by: (a) 2 directors of the company; or (b) a director and a company secretary of the company
If a company executes a document in either of these ways, people will be able to rely on the assumptions in s 129(5) for dealings in relation to the company.

40. The constitution

40.1 Copy of constitution to be made available on request

The *club* must provide a copy of this constitution to a *member* within 14 *days* if the *member*:

40.1.1 asks the *club*, in writing, for the copy; and

40.1.2 pays the fee required by the *club*, up to the amount prescribed by the *Corporations Act*.

Corporations Act Commentary
For the prescribed amount see Pt 1.1 and Schedule 4 of the <i>Corporations Regulations (Cth) 2001</i> (as at 1 August 2019, \$10.00)

40.2 Amendment to constitution

This constitution can only be amended by way of a resolution of note less than 75 percent of the *eligible members* present and entitled to vote at the meeting at which the *special resolution* is carried.

41. Notices

41.1 Notices

This clause applies to all notices and documents that this constitution, the *Corporations Act* or the *Registered Clubs Act* requires a party to this constitution to send to another party to this constitution (*notice*).

Corporations Act Commentary
The parties to the constitution are the <i>club</i> and its <i>members</i> , <i>directors</i> and the <i>secretary</i> : s140(1).

41.2 A person sending a *notice* must do so in writing and must address it to the recipient at the following respective addresses:

41.2.1 if to the *club* — at the *premises* or such other address as the *club* specifies in writing to *members* from time to time; and

41.2.2 if to a *member* — either at the *member's* address within New South Wales appearing on the *register* from time-to-time or such email address notified in writing to the *club* by the member.

41.3 A person may send a *notice* to another person in any of the ways set out in column 2 of the below table. The other person receives the *notice* at the time set out in column 3 of the table.

	Delivery Method	Time Person Receives Notice
1	Hand delivering the <i>notice</i> personally	The other person receives the <i>notice</i> : (i) if hand delivered before 4:00pm on a <i>business day</i> — on that <i>business day</i> . (ii) if hand delivered after 4:00pm on a <i>business day</i> — on the next <i>business day</i> . (iii) if hand delivered on a <i>day</i> other than a <i>business day</i> — on the next <i>business day</i> .
2	Sending the <i>notice</i> by pre-paid post	The other person receives the <i>notice</i> on the third <i>business day</i> after posting unless there is evidence that it is actually delivered earlier.

3	Sending the <i>notice</i> by facsimile transmission	<p>The other person receives the <i>notice</i>:</p> <ul style="list-style-type: none"> (i) if sent before 4:00pm on a <i>business day</i> — on that <i>business day</i>. (ii) if sent after 4:00pm on a <i>business day</i> — on the next <i>business day</i>. (iii) if sent on a <i>day</i> other than a <i>business day</i> — on the next <i>business day</i>. <p>This rule does not apply where the person sending the facsimile has evidence that the transmission was unsuccessful.</p>
4	Sending the <i>notice</i> by electronic means	<p>The other person receives the <i>notice</i>:</p> <ul style="list-style-type: none"> (i) if sent before 4:00pm on a <i>business day</i> — on that <i>business day</i> (ii) if sent after 4:00pm on a <i>business day</i> — on the next <i>business day</i> (iii) if sent on a <i>day</i> other than a <i>business day</i> — on the next <i>business day</i> <p>This rule does not apply where the person sending the <i>notice</i> by electronic means has evidence that the <i>notice</i> did not reach the other person's electronic address</p>

42. Definitions and interpretation

42.1 Definitions

In this constitution, unless the context suggests otherwise, the following definitions apply:

<i>AGM</i>	the annual <i>general meeting</i> held each year as required by the <i>Corporations Act</i> and this constitution;
<i>application fee</i>	means the fee payable by an applicant for membership of the <i>club</i> , as determined by the <i>board</i> from time to time;
<i>approved leave</i>	a leave of absence that has been approved by the <i>board</i> ;
<i>ASIC</i>	Australian Securities and Investments Commission;
<i>authority</i>	the Independent Liquor and Gaming Authority constituted under the <i>Gaming and Liquor Administration Act 2007</i> , or such authority or entity that replaces it from time to time;
<i>board</i>	the board of <i>directors</i> of the <i>club</i> elected or appointed in accordance with this constitution;

<i>by-laws</i>	by-laws made by the <i>board</i> ;
<i>claim</i>	any action, claim, suit, demand, proceedings, damages or statutory procedure for the recovery of money;
<i>Club</i>	A G A Club Germania Limited;
<i>core property</i>	has the meaning in the <i>Registered Clubs Act</i> ;
<i>Corporations Act</i>	the <i>Corporations Act 2001</i> (Cth) as amended from time to time and any regulations made under that Act;
<i>day</i>	a calendar day;
<i>director</i>	a director of the <i>club</i> elected or appointed in accordance with this constitution;
<i>dispose</i>	has the meaning in the <i>Registered Clubs Act</i> ;
<i>eligible member</i>	an <i>ordinary member</i> who is a <i>financial member</i> or <i>life member</i> ;
<i>employee</i>	all persons employed by the <i>club</i> regardless of their level of seniority and regardless of whether holding full-time, part-time, limited-term or casual employment;
<i>financial member</i>	a member shall not be a financial member of the club if: <ul style="list-style-type: none"> (a) any of the member's membership fees remains unpaid; or (b) any money (other than a member's membership fees) has remained unpaid at the expiration of 14 days after service on that member of a notice from the <i>club</i> requiring payment;
<i>financial year</i>	each 1 July to 30 June;
<i>Gaming Machine Act</i>	means the <i>Gaming Machine Act 2001 (NSW)</i> as amended from time to time and any regulations made under that Act;
<i>general meeting</i>	an <i>AGM</i> or special general meeting of the <i>club</i> ;
<i>guest</i>	has the meaning in the <i>Registered Clubs Act</i> ;
<i>honorary member</i>	has the meaning in clause 11;
<i>life member</i>	has the meaning in clause 10;

<i>Liquor Act</i>	means the <i>Liquor Act 2007 (NSW)</i> as amended from time to time and any regulations made under that Act;
<i>member</i>	any person registered as a member of the <i>company</i> pursuant to this constitution, in a category defined in clause 6;
<i>membership fee</i>	means the membership payable by a <i>member</i> for the membership of the <i>club</i> , as determined by the <i>board</i> from time to time;
<i>month</i>	a calendar month;
<i>notice board</i>	means a notice board located in a conspicuous place on the <i>premises</i> on which notices for the information of <i>members</i> are posted;
<i>officer</i>	has the meaning given to it in the <i>Corporations Act</i> ;
<i>ordinary member</i>	has the meaning in clause 7;
<i>premises</i>	the <i>club's</i> premises at 636A Northcliffe Drive, Kembla Grange;
<i>president</i>	means the President of the <i>club</i> elected under clause 19;
<i>provisional member</i>	has the meaning in clause 8;
<i>register</i>	means the register of <i>members</i> kept under the <i>Corporations Act</i> ;
<i>Registered Clubs Act</i>	means Registered Clubs Act 1976 (NSW), as amended or replaced from time to time and any regulations made under that Act;
<i>secretary</i>	the Company Secretary appointed under the <i>Corporations Act</i> ; and
<i>special resolution</i>	a resolution: <ul style="list-style-type: none"> • of which notice as set out in s 249L(c) of the <i>Corporations Act</i> has been given; and • that has been passed by at least 75% of the votes cast by the <i>members</i> entitled to vote on the resolution; and
<i>temporary member</i>	has the meaning in clause 9.

42.2 Interpretation

In this constitution, unless the context requires otherwise:

- 42.2.1 the singular includes the plural and vice versa;
- 42.2.2 where an expression is defined in the constitution, any other grammatical form of the expression has a corresponding meaning;
- 42.2.3 words and expressions defined in the *Corporations Act* or *Registered Clubs Act* have the same meaning in this constitution;
- headings are for purposes of convenience only and do not affect the interpretation of this constitution;
- 42.2.4 a reference to a statute or regulation includes all amendments, consolidations or replacements of the statute or regulation;
- 42.2.5 a reference to a clause is a reference to a clause of this constitution;
- 42.2.6 a reference to this constitution or another instrument includes all amendments or replacements of this constitution or the other instrument;
- 42.2.7 the notes to this constitution (being text boxes headed 'Corporations Act Commentary'):
- (a) are for purposes of convenience only and do not affect the interpretation of this constitution; and
 - (b) do not form part of this constitution and may be removed or modified without the *club* complying with this constitution or the *Corporations Act's* requirements that apply to removal or modification of constitutional provisions;
- 42.2.8 this constitution shall be read and constructed subject to the provisions of the *Corporations Act* and to the extent that any of the provisions in this constitution are inconsistent with the compulsory provisions of the *Corporations Act* such provisions of this constitution shall be deemed inoperative and of no effect to the extent of the conflict.

Schedule 1 – Objects of the *club*

The objects of the *club* are:

[Note: We have deleted current object 1 - please advise]

[Note: We have deleted current object 2 – please advise]

1. to promote the social welfare, enjoyment and recreation of its *members* to promote and engage in such sports games amusements pastimes entertainments and competitions as the *club* may deem expedient;
2. to acquire, purchase, lease or obtain a license of any land and buildings together with the right to alter, enlarge or relinquish or diminish the tenure of any such land or buildings for carrying out or aid in carrying out any of the objects and powers of the *club*;
3. to establish maintain and conduct facilities for the purpose of providing accommodation for the members thereof and their guests;

[We have modified current object 5 – see above]

4. to subscribe or become a member of, affiliate, amalgamate or cooperate with any other association whether incorporated or not whose objects are altogether or in part similar to those of this *club*;
5. to buy, sell and deal in all kinds of goods and commodities and all kinds of provisions either liquid or solid require by persons frequenting the *club's* property and premises;
6. to purchase for cash or on terms and to take on lease or otherwise acquire any easements, buildings or property real and personal which may be requisite for the purpose of or capable of being conveniently used in connection with any of the objects of the *club*;
7. to raise money by entrance fee, subscriptions and/or levies and to grant any rights and privileges to subscribers;
8. to invest and deal with monies of the *club* not immediately required upon such securities and in such manner as may from time to time be determined including power to invest on deposit in any bank carrying on business in New South Wales, and to lend on mortgage of both real and personal property;
9. borrow, raise and secure payments of money in such manner and on such terms and conditions as the *club* shall think fit and in particular to give mortgages and liens over the property real and personal of the *club* and to issue debentures and debenture stock perpetual or otherwise, charged upon all or any of the *club's* property both present and future, and to purchase, redeem or pay off such securities as aforesaid;
10. to sell, lease, accept surrenders of lease, let, improve, fence, manage, develop, exchange, mortgage, dispose of, grant, give or dedicate roads, lanes or rights of way upon, turn to account or otherwise deal with all or any part of the real or personal property of the *club*;
11. to devote any part of the funds of the *club* towards the expense of competitions and the provision of prizes, trophies, awards and distinctions;

12. to enter into lawful arrangements or cooperate with any company, association, club, person or persons for the purpose of promoting any of the objects of the *club* upon such terms and conditions as shall be agreed upon;
13. to draw, make, accept, endorse, discount, execute and issue promissory notes, cheques, bills of exchange, bills of lading, debentures or other negotiable or transferable instruments;
14. to take any gift of property, whether subject to a special trust or note for one or more of the objects of the *club*;
15. to take such steps as may from time to time be deemed expedient for the purpose of procuring contributions to the funds of the *club* in the shape of donations, annual subscriptions or otherwise;
16. to print and publish any electronic media, newspaper, periodicals, books or leaflets that the *club* may deem expedient for the promotion of its objects;
17. to subscribe to any local or other charity or to grant donations from any other lawful purpose;
18. to apply for and obtain either in the name of the *club* or in the name of any or more members or servants of the *club* or in the name of a nominee on behalf of the *club* any registration, licence or renewal or extension thereof which may be necessary or desirable, including any registration, license under the provisions of the *Liquor Act 2007* as amended and the *Gaming Machine Act 2001* as amended or replaced from time to time and any regulations made under that Act, or any other Act for the time being in force for the carrying on of the business and objects of the *club*;
19. to insure against all or any insurable risks to which the *club* or any of its servants or agents might be or become liable;
20. to insure against damage by fire or otherwise any insurable property of the *club* and to insure any servant, agent or member of the *club* against risk accident or fidelity in the course of their employment by the *club* and to effect insurance for the purpose of indemnifying the *club* in respect of claims by reason of any such risk accident or fidelity and to establish and support or aid in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit employees or past employees of the *club* or dependents or connections of any such persons and to grant pensions and allowances and to pay premiums or other amounts on such insurances funds pensions or allowances;
21. to acquire membership of the Clubs NSW and to arrange for the representation of the *club* at any corporation body or bodies formed for the purpose of promoting the interests of the *club* and its social sporting and other activities;
22. to purchase and/or apply for a license or permit or other authority under the *Registered Clubs Act 1976*, *Public Health (Tobacco) Act 2008*, or such Act or Acts as shall for the time being in force in the state of New South Wales for the purpose of selling tobacco cigarettes and other supplies and the operation of automatic machines and to hold any licence or permit necessary for the provision of dining room, snack bar and/or similar facility and for all kinds of goods or provisions required or desired by members;
23. to institute, maintain or defend any action or suit at law or in equity and to become party to and join in any person, firm or corporation in any proceedings whether at law or in equity in respect of any action suit, cause of action, arbitration, debts dues, costs and demands

whatsoever both at law or in equity or arising under the provisions of any statute directly or indirectly in connection with the *club's* interests, property or business and the enforcement and protection of the *club's* rights at law and in equity and to abandon compromise or settle any action or proceedings in which the *club* is a party;

24. to do all such other things as are incidental or conducive to the attainment of all or any of the objects of the *club*.

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