

# **ACT Nudist Club Incorporated**

## ***Constitution 2011***

**adopted by Club members  
by special resolution passed at  
Special General Meeting  
held 20 August 2011**

**Date of commencement: 13 September 2011**

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# Constitution 2011

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# Constitution 2011

## I. PRELIMINARY

### 1. Name of document

This document is the *Constitution 2011* of the ACT Nudist Club Incorporated.

### 2. Incorporation of the Club

The Club is incorporated under the *Associations Incorporation Act 1991* (ACT).

### 3. Purpose of Club Constitution

The Constitution sets out the Objects and Rules of the Club for the following purposes—

- (a) to clarify members' rights, privileges and obligations in their dealings with the Club and Committee; and
- (b) to promote transparency, accountability and certainty in relation to the Committee's dealings with Club members and external parties including prospective members, regulatory agencies, contractors and the nudist movement; and
- (c) thereby to assist members to act together harmoniously to achieve the Club's Objects.

### 4. Commencement of new Constitution and replacement of former constitution

- (1) This Constitution commences when it is lodged with the registrar-general.<sup>1</sup>
- (2) Subject to section 5, the Club's former constitution ceases to have effect when this Constitution is lodged with the registrar-general.

*Note:* The 'registrar-general' is defined in the *Registrar-General Act 1993* (ACT).

### 5. Continuing effect of things done under former constitution and earlier constitutions

- (1) If an act was lawfully done or something was lawfully begun under—
  - (a) the Club's former constitution; or
  - (b) any constitution of the Club dating from the time before the Club was incorporated; and

if that act or thing is continuing— it is to be treated as having been done under this Constitution.

*Example:* A person who became a probationary member under the former constitution and who was still a probationary member when that constitution was replaced, became a probationary member under this Constitution – similarly in relation to other categories of member.

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<sup>1</sup> 13 September 2011.

(2) A contravention of a provision of—

(a) the Club's former constitution; or

(b) any constitution dating from the time before the Club was incorporated;

is to be treated as a contravention of this Constitution.

*Example:* One of the sections of this Constitution where this applies is section 34.



## II. OBJECTS OF THE CLUB

### 6. Fundamental objects of the Club

The fundamental objects of the Club are as follows—

- (a) to further the interests of nudism, particularly in the Australian Capital Territory; and
- (b) to further the interests of nudists as Club members; and
- (c) in order to properly perform the above commitments—
  - (i) to acquire, develop, operate and maintain a club site and amenities; and
  - (ii) to affiliate with such other clubs, organizations or bodies during such periods as the members of the Club may determine and approve.

### 7. Incidental objects of the Club

In support of the Club's fundamental objects, the Club has the following incidental objects—

- (a) the purchase, taking on lease or in exchange, and the hiring or otherwise acquiring of any real or personal property that may be deemed necessary for any of the objects of the Club; and
- (b) the buying, selling, and supplying of, and dealing in, goods of all kinds permitted by law; and
- (c) the purchase and supply of services permitted by law; and
- (d) the construction, maintenance and alteration of buildings or works necessary or convenient for any of the objects of the Club; and
- (e) the acceptance of any gift, whether or not subject to a special trust, for any of the objects of the Club; and
- (f) the taking of steps to procure contributions to the Club's funds, whether by way of donations, subscriptions or otherwise, as approved from time to time by the Committee or by the members in general meeting; and
- (g) the printing and publishing of such newsletters, periodicals, books, leaflets or other documents as the Committee or members in general meeting approve for the promotion of the Objects of the Club; and
- (h) money-raising and repaying money in such a manner as the Committee thinks fit, including—
  - (i) borrowing money and giving security for repayment of moneys; and
  - (ii) paying debts or extinguishing liabilities of the Club,

**provided that** the Committee must not give mortgages, charges or securities over Club property unless the members of the Club in general meeting have first approved that or directed the Committee to do that; and

- (i) subject to the *Trustee Act 1925* (ACT), the investment of any moneys of the Club not immediately required for any of the objects of the Club in such manner as the Committee may determine from time to time; and
- (j) the making of gifts, subscriptions or donations to any of the funds, authorities or institutions mentioned in subdivision 30-B of the *Income Tax Assessment Act 1997* (Cth),
- (k) in respect of employees or past employees of the Club and their dependents—
  - (i) the establishment and support, or aiding in the establishment and support, of associations, institutions, funds, trusts, schemes and conveniences designed to benefit each or any of them; and the payment of a debt or liability of the Club,
  - (ii) the granting of pensions, allowances or other benefits to each or any of them; and
  - (iii) the making of payments towards insurance in relation to any of these purposes; and
- (l) in respect of the Club, its members and visitors— the making of payments towards insurance in relation to—
  - (i) the protection of the interests of the Club, its members and visitors in respect of works performed on behalf of the Club; and
  - (ii) the protection of Committee members in relation to decisions made in good faith in managing the affairs of the Club; and
  - (iii) the maintenance and protection of the property of the Club; and
  - (iv) the protection of the interests of visitors to the Club for any purpose that may attract public liability.
- (m) subject to the limitations in this Constitution on dealings with the Club’s land, the establishment and support, or aiding in the establishment and support, of any other association formed for any of the fundamental objects of the Club; and
  - Note:* For limitations on dealings with the Club’s land, see sections 83 and 84.
- (n) the doing of all such other lawful things as are incidental or conducive to the attainment of the fundamental or incidental objects of the Club.

### **III. RULES OF THE CLUB**

#### **3.1 Character of Club governance**

##### **8. Inclusiveness of decision-making**

The Committee must conduct its activities in a way that maximizes the contributions of all members to the work and decision-making of the Club, except in relation to the personal circumstances and information of individual members unless that is specifically provided for in this Constitution.

*Note:* Only the Club Committee is normally involved in decisions in relation to the personal circumstances and information of members, but other sections of this Constitution provide for member involvement in disciplinary proceedings at the appeal stage.

##### **9. Keeping members informed**

The Committee must place high importance on keeping members informed of the Committee's work, the activities of the Club and the issues it is addressing. It may do this by regular newsletters, at informal meetings of members, by continuing the Club's practice whereby any and all members may observe Committee meetings, by responding to questions and suggestions, using electronic means or in any other way it considers appropriate.

## 3.2 Interpretation of Constitution

### 10. Constitution includes Constitution Dictionary

The Constitution Dictionary at the end of this document is part of this Constitution.

### 11. Legislation Act applies to Constitution

The *Legislation Act 2001* (ACT) applies to this Constitution in the same way as it would if this Constitution were a statutory instrument made under the *Associations Incorporation Act 1991*.

*Note:* Amongst many other things, the Legislation Act contains rules on such matters as working out periods of time; defines the power to make a decision as including the power to reverse or change a decision; and contains rules about what a reference in a document to an Act means when that Act is amended or repealed.

### 12. Significant statutory principles applying to Club rules and activities

- (1) The Club is bound by Territory laws, the common law, the rules of equity and by Federal laws operating on the Club.
- (2) Some significant statutory principles in Territory laws applying to the Club and this Constitution are—
  - (a) the Objects and Rules of the Club must not be inconsistent with Territory law; and
  - (b) a requirement of a Territory law must be interpreted in a way that is compatible with the purpose of the law and with human rights; and

*Examples:* The Act provides members with a right of access to club records, the purpose being to keep clubs accountable to members. On the other hand, the *Human Rights Act 2004* (ACT) recognizes an individual's rights to privacy and reputation. It states that a Territory law can only limit human rights if it imposes a reasonable limitation that 'can be demonstrably justified in a free and democratic society'.

Therefore, if in the way it provides access to Club records the Club can still uphold the accountability object of the Associations Incorporation Act, it may limit other members' access to the personal information of or about a member to the extent reasonably necessary to protect the privacy and reputation of that member.

Another important human right is the right to protection of the family and children. The Club and members must observe this human right in the governance of the Club and conduct of Club members.

- (c) the Club must comply with the rules of natural justice in any decision affecting a member or members; and

*Note:* see the Constitution Dictionary for a definition of 'natural justice'.

- (d) the Committee is accountable to members, the auditor and the registrar-general; and
- (e) members must observe the Rules of this Constitution.

### 3.3 Membership of the Club

#### 13. Categories of membership

- (1) The Club recognizes the following categories of membership—
  - (a) probationary membership; and
  - (b) general membership; and
  - (c) honorary life membership; and
  - (d) purchased life membership.
- (2) The rights, privileges and obligations of members falling within each of the above categories of membership, are limited in the ways set out in this Constitution.
- (3) A right, privilege or obligation of a member within a category of membership, is equal to a corresponding right, privilege or obligation of each other member in the same category of membership.
- (4) Except for the obligation only on general members to make subscriptions for continuing membership of the Club—
  - (a) after the member has joined the Club, a right, privilege or obligation of a member in the general membership, honorary life membership or purchased life membership categories  
is equal to—
    - (b) a corresponding right, privilege or obligation of each member in each other of those categories of membership.

#### 14. Qualifications for membership

A person is qualified to be a member if—

- (a) at least 2 members (the ‘nominating members’), who are not probationary or unfinancial members of the Club, nominate that person for membership; and
- (b) the person is at least 18 years of age; and
- (c) the Committee accepts the person into membership

in accordance with the process set out in this Constitution.

#### 15. Nomination procedure

- (1) Before nominating a person for membership, the nominating members must have regard to any guidelines for acceptance of persons into Club membership published by the Committee in accordance with this Constitution.
- (2) The nominating members must complete and sign a nomination form that has been approved by the Committee as complying with this Constitution and any relevant guidelines.

*Note:* See section 79 for principles for provision of information to nominees for membership.

- (3) If the nominee—
  - (a) has read or had the nomination form read to her or him; and
  - (b) consents to the terms and conditions of nomination stated in the formthe nominee must signify acceptance of the terms and conditions with the nominee's usual signature or mark.
- (4) One or more of the nominating members must lodge the completed form with the Membership Secretary.
- (5) The Membership Secretary must—
  - (a) note on the completed nomination form the date on which it is lodged; and
  - (b) refer the nomination to the next meeting of the Committee for decision whether or not to approve the nominee for acceptance into probationary membership.
- (6) Unless sub-section (7) applies,<sup>2</sup> the minimum period of probationary membership that a nominee must serve is the total length of time comprising the time in (a) *plus* the time in (b) as follows, where—
  - (a) is the length of time *beginning* when the Membership Secretary enters the nominee's name, as a probationary member, in the register of members and *ending* on the date on which the probationary member's name is published to members in the Club's newsletter; and
  - (b) is a period of 2 months.

## 16. Acceptance into probationary membership

- (1) The Membership Secretary, without delay, must—
  - (a) notify the nominee in writing of the outcome of the Committee's decision and, if the nomination has been approved, confirm the date by which the joining fee is payable; and
  - (b) notify all Club members, other than probationary members, in the next Club newsletter or otherwise in writing, of the nominee's full name and acceptance into probationary membership.
- (2) On receipt of the joining fee, the Membership Secretary must enter the nominee's name, address and other contact particulars in the Club's register of members, as a probationary member.
- (3) When the nominee's name is entered in the register of members, the nominee becomes a probationary member of the Club from that date.

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<sup>2</sup> There is no sub-section (7). The reference to 'sub-section (7)' is a drafting error.

- (4) If the nominee does not pay the joining fee within 21 days of the date on which the Membership Secretary advises the nominee that she or he has been accepted as a probationary member, the nomination lapses.

### **17. Meaning of probationary membership**

- (1) The object of probationary membership is to give the probationary member the opportunity to become acquainted with Club members, and they with the probationary member, in the course of informal conversational contacts and Club activities such as socials, working bees, sports, exercise regimes and poolside relaxation.
- (2) A probationary member is expected to avail herself or himself of these opportunities to meet Club members.
- (3) At any time during a period of 2 months from the date of publication to members of the new probationary membership, a member may challenge the suitability of a probationary member to remain a member of the Club.
- (4) Such a challenge may be directed to any member of the Committee, who must refer the matter to the Committee.
- (5) The Committee must require the challenger to—
  - (a) confirm, in writing, particulars of the member's concern; and/or
  - (b) be present at the Committee meeting at which a challenge to a probationary membership is considered.

### **18. Decision on a challenge to probationary membership**

- (1) Subject to this section, on receipt of such a challenge, the Committee must, without delay, decide whether to—
  - (a) terminate; or
  - (b) continuethe probationary membership; or
  - (c) require the probationary member to serve a further period of 2 months, as a probationary member, to come into effect on completion of the initial period of probationary membership.
- (2) Before making such a decision, the Committee must call for such testimony as the Committee members and the probationary member consider necessary.
- (3) In reaching its decision, the Committee must accord natural justice to the probationary member.
- (4) The Committee must inform members if it decides to terminate or extend a period of probationary membership under this section.

### **19. Membership Secretary's report on probationary membership**

- (1) Unless probationary membership is terminated in accordance with section 18, on completion of the period or periods of probationary membership, the Membership



Secretary must submit a report to the next meeting of the Committee as to the suitability of the probationary member for general membership.

- (2) In preparing such a report, the Membership Secretary must have regard to—
  - (a) any published guidelines for acceptance of persons into Club membership; and
  - (b) the extent of the nominee’s social interaction with Club members as far as the Membership Secretary is aware; and
  - (c) the reasons for any decision taken by the Committee to extend a period of probationary membership under section 18; and
  - (d) the outcomes achieved by any decision of the Committee to extend the member’s period of probationary membership.
- (3) The Secretary must minute the Membership Secretary’s report.
- (4) Pending a decision on the Membership Secretary’s report, the probationary member’s rights, privileges and obligations to the Club continue.

## **20. Committee decision on progression to general membership**

- (1) Subject to this section, the Committee must decide whether or not to approve the probationary member as suitable for general membership without delay.
- (2) In making this decision, the Committee must have regard to—
  - (a) any published guidelines for acceptance of persons into Club membership; and
  - (b) whether the nominee has had a satisfactory degree of social interaction with Club members; and
  - (c) the reasons for any decision taken by the Committee to extend a period of probationary membership under section 18; and
  - (d) the Membership Secretary’s report as to the candidate’s suitability for acceptance into general membership.
- (3) In the event that the Membership Secretary’s report raises concerns that have not been put to the probationary member, the Committee must give that member an opportunity to respond before a decision is made.
- (4) In the event that the Committee is not satisfied that the probationary member is—
  - (a) suitable; or
  - (b) unsuitable

for acceptance into general membership, it may extend the period of probationary membership, provided it has not already extended the period of probationary membership under section 18.

## **21. Acceptance of suitability for general membership**

- (1) If the Committee approves the probationary member as suitable for general membership, the Membership Secretary must inform the probationary member, without delay, of—
  - (a) the Committee's decision; and
  - (b) the date by which the initial membership subscription must be paid.
- (2) If the initial membership subscription is not paid by the due date, the application for membership lapses.
- (3) Upon receipt of the initial membership subscription, the Membership Secretary must notate the Club membership records to show that the probationary member has become a general member on that date.

## **22. Refusal of general membership**

Unless the Committee extends the period of probationary membership, if the Committee does not approve the probationary member as suitable for general membership—

- (a) the Committee must terminate the membership; and
- (b) the Membership Secretary must, without delay—
  - (i) inform the probationary member of the Committee's decision; and
  - (ii) delete the probationary member's name from the register of members; and
  - (iii) list the probationary member in a schedule to the register of members as not having been approved for general membership; and
- (c) the Treasurer must, without delay, refund the probationary member's joining fee and any membership subscription already paid.

## **23. Honorary life membership**

- (1) The Committee may nominate a person for acceptance by a general meeting as an honorary life member, if the person has performed exceptional service to the Club or the nudist movement.
- (2) An honorary life member who, before nomination, was a member of the Club, is not liable to pay any further membership subscription.
- (3) An honorary life member who, before nomination, was not a member of the Club, is not liable to pay any joining fee or membership subscription.

## **24. Purchased life membership**

- (1) A member who purchased life membership when that was available, is not liable to pay any further membership subscription.
- (2) This category of membership is closed to new memberships.

## **25. Fees and subscriptions**

- (1) No later than 2 months before the commencement of a financial year, the Committee must determine and notify members of the amount of—
  - (a) the joining fee payable by new members; and
  - (b) the membership subscription payable by membersfor the following financial year.
- (2) Except as provided in sub-section (3), the membership subscription is due and payable annually, on or before the first day of the financial year.
- (3) In the case of new memberships, the amount of the membership subscription that a prospective member is liable to pay, before being entered into the register of members, is determined by the date on which the Committee accepts the prospective member as suitable for membership, as follows—
  - (a) if there are 6 or more months to run in the financial year on that date – the amount payable is the full annual rate of membership subscription ; or
  - (b) in all other cases – the amount payable is half the annual rate of membership subscription.
- (4) The right of a member to enter the Club’s grounds ceases if that person’s membership subscription is unpaid at 1 August in any year.
- (5) Subject to sub-section 25(6), membership of the Club lapses if, despite 1 or more written reminders to the member concerned by the Membership Secretary or Treasurer, the membership subscription or any other outstanding debts remain unpaid in any year on 1 November following the date on which the membership subscription becomes due.
- (6) A member may approach the Committee at any time during the period before 1 November to arrange for time payment or leniency in the repayment of debts, other than the membership subscription, so as to take into account the member’s personal circumstances.

## **26. Cessation of membership rights and privileges**

A person’s membership rights, other than human rights including the right to natural justice, and a person’s privileges of membership cease in all respects when the person—

- (a) dies; or
- (b) gives notice of resignation; or
- (c) is expelled from the Club; or
- (d) fails to pay the membership subscription or other debts such that membership lapses in accordance with sub-section 25(5).

## **27. Resignation from membership**

- (1) At any time a member may resign from the Club by giving written notice to the Membership Secretary.

- (2) Any amounts owing to the Club at the date of resignation, whether for membership subscription or otherwise, must be paid in full before the resigning member is relieved of liability to the Club.

*Note:* See the Constitution Dictionary for definition of ‘date of resignation’.

- (3) Any amounts not paid on demand by the Club may be recovered at law as debts owing to the Club.

## **28. Action on notice of resignation**

- (1) When the Membership Secretary receives a notice of resignation, the Membership Secretary must, without delay—
  - (a) notify the Treasurer of the resignation; and
  - (b) notate the membership register with the date of the resignation; and
  - (c) remove the name of the resigning member from the register of members when satisfied that that member owes no amounts of money to the Club; and
  - (d) if the resigning member’s name has been removed from the register of members in accordance with paragraph (c) – insert the resigning member’s name and contact details in a schedule to the register of members that lists former members.
- (2) When the Membership Secretary notifies the Treasurer of a resignation, the Treasurer must, without delay—
  - (a) if no amounts are owing to the Club, notify the Membership Secretary of that; and
  - (b) take action to recover any amounts owing by the resigning member; and
  - (c) notify the Membership Secretary if and when those amounts are recovered.
- (3) The resigning member is relieved of liability to the Club when the Membership Secretary removes the resigning member’s name from the register of members.

## **29. Limitations on transfer of rights, privileges and obligations of members**

- (1) Except for transferring voting rights by proxy in accordance with section 63, a member may not transfer to another person a right as a Club member unless—
  - (a) the right to be transferred is a right to occupy a site in the Club’s grounds; and
  - (b) the right is transferred to another member of the Club; and
  - (c) the written approval of the Committee is first obtained; and
  - (d) the transfer of the right is embodied in a written agreement approved by the Committee; and
  - (e) the transferor and transferee undertake to maintain their respective memberships of the Club throughout the period of the agreement.
- (2) A member may not transfer to another person a privilege of Club membership.

- (3) A member may not transfer to another person an obligation as a Club member unless—
- (a) the obligation is transferred to another member of the Club; and
  - (b) the written approval of the Committee is first obtained; and
  - (c) the transfer of the obligation is embodied in a written agreement approved by the Committee; and
  - (d) the transferor and transferee undertake to maintain their respective memberships of the Club throughout the period of the agreement.
- (4) Unless terminated earlier by arrangement between the parties, the transfer of a right or obligation ceases when the membership rights of either party cease in accordance with section 26.
- (5) The parties to the arrangement must notify the Secretary of the termination of an arrangement referred to in sub-section (3).
- (6) Nothing in this section prevents the Committee, in consultation with the membership, from making a by-law of general application to members to require that rights to occupy sites no longer required or used by members for temporary shelter and recreation during visits to the Club be returned to the Club for reallocation.

### **30. Responsibility for visitors invited by a member**

A member who invites a non-member onto the Club grounds—

- (a) must observe any by-laws or guidelines made by the Committee in relation to visitors; and
- (b) is personally liable to the Club financially and for disciplinary purposes for acts and things done by the non-member as if the non-member were a member of the Club.

### **31. Limitation of members' liability to the Club on winding up**

The liability of a member to contribute towards the payment of—

- (a) the debts and liabilities of the Club; or
- (b) the costs, charges and expenses of the winding up of the Club;

is limited to—

- (c) the amount (if any) of the membership subscription due and remaining unpaid by the member; together with
- (d) any debt due and payable by the member to the Club.

### **32. Return of Club property on cessation of membership rights**

- (1) When a person's membership rights cease in accordance with section 26, that person or the person's executor must, within—
- (a) 7 days; or

- (b) such other period not exceeding 30 days (or, in the case of an executor, such reasonable longer period) as agreed with the Committee;

return to the Membership Secretary each and every item of Club property in her or his possession or control.

*Note:* 'Club property' is defined in the Constitution Dictionary.

(2) The Membership Secretary must—

- (a) issue a receipt for the returned property, if requested; and
- (b) without delay, return any Club records to the custody of the Secretary or Treasurer as appropriate.

### **33. Vacation of Club land on cessation of membership rights**

(1) When a person's membership rights cease, that person must—

- (a) not enter the Club's grounds except with the consent of the Committee; and
- (b) in consultation with the Committee, without delay, arrange for—
  - (i) the prompt removal of all of that person's property from the Club's land at that person's expense; or
  - (ii) if the Committee agrees, the on-sale of that person's property to the Club or to a member of the Club, subject to prompt removal of the property at the person's expense if the property is not on-sold in a timeframe agreed with the Committee.

*Note:* 'Person's property' is defined in the Constitution Dictionary.

(2) Any expense incurred by the Committee in giving effect to paragraph (1)(b) is a debt due and payable to the Club.

### **34. Disciplining of members**

(1) If, on the basis of information before the Committee, the Committee forms the opinion that, if the information is correct, a member other than a probationary member has—

- (a) conducted herself or himself in a manner that is detrimental to the interests of the Club; or
- (b) intentionally or recklessly contravened—
  - (i) a rule of the Constitution of the Club; or
  - (ii) a rule of the former or an earlier constitution of the Club; or
  - (iii) a by-law of the Club; or
- (c) intentionally and unreasonably disregarded a guideline issued by the Committee,

- the Committee may, by disciplinary resolution—
- (d) expel the member; or
  - (e) suspend the member from the Club for a period specified by the Committee.
- (2) If the Committee passes a disciplinary resolution, the Secretary must, without delay, give a written notice to the member that—
- (a) sets out the Committee’s resolution and the grounds on which it is based; and
  - (b) states that the member may address the Committee at a meeting to be held not earlier than 14 days and not later than 28 days after service of the notice; and
  - (c) states the date, place and time of the meeting; and
  - (d) informs the member that the member may—
    - (i) decline to attend the meeting; or
    - (ii) attend and speak at the meeting; or
    - (iii) submit written representations in response to the resolution, at or before the meeting; or
    - (iv) exercise both of the options set out in sub-paragraphs (ii) and (iii) above; and
    - (v) request that the Committee be constituted by a Sub-committee of 3 persons; and
    - (vi) be accompanied at the meeting by a partner or friend.
- (3) At the meeting, the Committee must—
- (a) accord the member natural justice; and
  - (b) excuse from the meeting any Committee member whom it is satisfied—
    - (i) is prejudiced or appears to be prejudiced against the member; or
    - (ii) is biased or appears to be biased in favour of the member; or
    - (iii) is personally involved in the matter the subject of the disciplinary resolution; and
  - (c) be constituted by a sub-committee of 3 persons if requested by the member the subject of the disciplinary resolution; and
  - (d) permit the member to be accompanied by a partner or friend; and
  - (e) give the member the opportunity to—
    - (i) make oral representations; and
    - (ii) call witnesses; and
  - (f) fully consider any written representations submitted by the member at or before the meeting.

- (4) At or without delay after the meeting, the Committee must by resolution decide whether to—
  - (a) confirm; or
  - (b) revoke; or
  - (c) varythe disciplinary resolution of the Committee.
- (5) The Secretary must, without delay, inform the member of—
  - (a) the outcome of the meeting; and
  - (b) the member’s right of appeal under section 35.
- (6) If a member the subject of a disciplinary resolution informs the Committee that she or he does not intend to respond in any way to the resolution, the resolution made by the Committee under sub-section (1) does not take effect until the date on which the member notifies the Committee of that.
- (7) In all other cases, a decision under sub-section (4) on a disciplinary resolution made by the Committee does not take effect until the end of the appeal period.
- (8) The ‘appeal period’ referred to in sub-section (7) is—
  - (a) if the member does not exercise the right of appeal provided by section 35 – the period referred to in sub-section 35(2); or
  - (b) if the member exercises the right of appeal – the period until the general meeting of members that hears the appeal confirms the disciplinary resolution in accordance with sub-section 36(1) and, where it applies, paragraph 60(5)
    - (a).
- (9) If the general meeting of members hearing an appeal does not confirm a decision on a disciplinary resolution made under sub-section (4), the disciplinary resolution is of no effect.
- (10) A sub-committee formed under paragraph (3)(c) must—
  - (a) include at least 2 members of the Committee who must be impartial, as must the third member of the sub-committee; and
  - (b) report without delay to the full Committee on its deliberations.
- (11) Nothing in this section or in sections 35 and 36 prevents the Committee at any time from making a complaint to police if the information before the Committee suggests that there has or may have been a contravention of the criminal law.
- (12) If it appears to the Committee that a complaint does not fall within paragraphs (1)(a) or (b) or (c) but does involve an unresolved dispute between members, nothing in this section prevents the Committee, if the member parties to the complaint agree, from referring the member parties to:
  - (a) a sub-committee delegated in accordance with section 52 to attempt to resolve the dispute; or



- (b) external alternative dispute resolution procedures at the expense of the member parties.

### **35. Right of appeal of disciplined member**

- (1) A member notified of a decision on a disciplinary resolution in accordance with sub-section 34(5) may write to the Secretary to requisition a general meeting of members for the purpose of hearing an appeal by the member.
- (2) If the member requisitions a general meeting, the member must do so within 14 days of receiving the notice referred to in sub-section 34(5).
- (3) If the Secretary does not receive a requisition for a general meeting within the time limit, the member is taken to have accepted the decision of the Committee on the disciplinary resolution.
- (4) The Secretary without delay must notify the Committee and call a general meeting of members if a requisition is received from the member.

*Note:* For procedure in calling a general meeting, see sections 58 and 59.

### **36. Procedure at an appeal to a general meeting**

- (1) At a general meeting convened to hear an appeal against a Committee decision on a disciplinary resolution—
  - (a) no business other than the question of suspension or expulsion of the member concerned may be transacted; and
  - (b) the Committee must place before the meeting details of the grounds for the suspension or expulsion and of the Committee's reasons for its decision; and
  - (c) the member or a representative of the member or both must be given the opportunity to be heard aurally or in writing or both; and
  - (d) the Committee has a right of response; and
  - (e) in the course of discussion of the disciplinary resolution, the meeting may put forward recommendations for consideration by the Committee; and
  - (f) a secret ballot of members must be held on the question of whether or not the suspension or expulsion decided by the Committee will stand; and
  - (g) each Committee member and the member the subject of a disciplinary resolution and any representative of that member will not have a right to vote in the ballot; and
  - (h) no proxy will be accepted; and
  - (i) the question of suspension or expulsion of the member must be determined by a simple majority vote of those voting in the ballot; and
  - (j) the person presiding over the meeting does not have a right to a casting vote; and

(k) in the event of an equality of votes, the disciplinary resolution lapses but the Committee may issue a written warning to the member the subject of the disciplinary resolution.

(2) The Committee without delay must notify all members of the Club of the outcome of the meeting.

*Note:* See section 60 for procedure if a quorum is not present at the meeting.

### **37. Notice of expulsion of member to nudist organizations**

If the Club has a reciprocal arrangement with a nudist organization in relation to disciplinary issues, the Committee must notify that organization of the expulsion of a member.

### **38. Limitation on access to Club grounds during disciplinary processes**

During the period from the date on which the Secretary gives a written notice under subsection 34(2) until the conclusion of disciplinary processes (including any appeal), a member the subject of a disciplinary resolution has no right of access to the Club grounds or functions, other than to a meeting of the Committee or a general meeting of members as part of the disciplinary processes.

### 3.4 The Club Committee

#### 39. Functions and powers of the Committee

Subject to the Act, the Regulation and these Rules (including resolutions in accordance with the Constitution of the Club in general meeting), the Committee—

- (a) controls and manages the affairs of the Club; and
- (b) may perform all functions and exercise all powers that may be carried out by the Club other than those functions and powers that are required by this Constitution to be carried out by the Club in general meeting; and
- (c) has power to perform all acts and to do all things that appear to the Committee to be necessary or desirable for the proper management of the affairs of the Club.

#### 40. Membership of the Committee

(1) The Committee consists of—

- (a) the Executive office-bearers of the Club; and
- (b) 4 general Committee members;

each of whom must be elected at the annual general meeting under section 42 or appointed in accordance with sub-section (4); and

- (c) if she or he is available to serve on the Committee, the Immediate Past-President of the Club; and
- (d) if the Immediate Past-President is not available to serve on the Committee, an additional general Committee member, who must be elected under section 42 or appointed in accordance with sub-section (4).

(2) The Executive office-bearers of the Club are—

- (a) the President; and
- (b) the Vice-President; and
- (c) the Treasurer; and
- (d) the Secretary.

(3) Subject to this Constitution, each elected member of the Committee holds office until the conclusion of the annual general meeting following the date of the member's election, but is eligible for re-election.

(4) If there is a vacancy in the membership of the Committee that—

- (a) is not filled by election at the annual general meeting; or
- (b) arises by the operation of section 48,

the Committee must appoint a member of the Club without delay to fill the vacancy.

- (5) A member appointed under sub-section (4) holds office, subject to this Constitution, until the conclusion of the next annual general meeting after the date of that appointment, but is eligible for election.
- (6) The President of the Club must not hold office for more than 2 consecutive years.
- (7) Sub-section (6) does not prevent the President from holding office during 3 consecutive years if she or he is appointed to that office under sub-section (4) for part or all of 1, 2 or 3 of those years.
- (8) No member of the Committee may hold more than one Executive office.
- (9) Sub-section (8) does not prevent any member of the Committee from—
  - (a) except for the Secretary – being the Public Officer; or
  - (b) subject to paragraph (c), holding a second Executive office as an interim measure until the vacancy is filled under sub-section (4); or
  - (c) except in the case of the President or Secretary – acting as Treasurer during the temporary absence of or vacancy in the office of the Treasurer.
- (10) If any 2 office-holders are in a relationship of support or dependence (such as marriage or like relationship or family relationship), the President must take steps to ensure that any responsibilities under this Constitution that would require or permit both to approve or sign a document on behalf of the Club —
  - (a) are subject to regular and prompt independent review by the Committee; or
  - (b) alternative arrangements to those otherwise specified in this Constitution for approval or signature of the document are made, so that another member of the Committee is substituted for 1 of the office-holders referred to in this section.

#### **41. Functions and powers of the Executive Committee**

- (1) The Executive office-bearers of the Club comprise the Executive Committee.
- (2) Where a quorum of the Committee cannot be called together, the Executive Committee may obtain a consensus of the Committee by telephone or other means of communication including e-mail, and may act on that consensus and report to the next Committee meeting.
- (3) The Executive Committee has power to issue instructions to the Public Officer and to contractors or servants of the Club in urgent matters of the Club’s affairs during the intervals between Committee meetings.
- (4) The Executive Committee must report to the next Committee meeting on any such instructions that have been issued.

#### **42. Nomination, election and appointment of Committee members**

- (1) A nomination of a candidate for election as a Committee member at the annual general meeting as—
  - (a) an Executive office-bearer of the Club; or

- (b) a general Committee member
- must be—
- (c) made in writing; and
  - (d) legible; and
  - (e) signed by the nominator, who must be a financial member of the Club, must not be the nominee and must not be a probationary member; and
  - (f) accompanied by the signed written consent (which may be endorsed on the nomination form) of the candidate, who must be a financial member of the Club and must not be a probationary member; and
  - (g) received by the Public Officer or her or his agent not less than 25 hours before the time notified for the commencement of the annual general meeting at which the election is to take place.
- (2) The Secretary must forward to members, with the notice of meeting, nomination forms that—
- (a) make provision for completion of the names of the nominator and nominee and the position or positions for which the member is nominated; and
  - (b) state the date and time of the meeting at which the election of Committee members will be held; and
  - (c) state prominently the final time, day and date by which nominations will be accepted; and
  - (d) state that late nominations will not be included in the election of Committee members unless nominations are called from the floor to fill positions still vacant after receipt of nominations; and
  - (e) state that nominations should be returned to the Public Officer; and
  - (f) give particulars of the address or addresses to which nomination forms may be transmitted or delivered; and
  - (g) state that members may be nominated from the floor of the meeting for election to the Committee only for any vacancy remaining after other positions on the Committee have been filled from valid nominations received before the meeting.
- (3) The Public Officer must—
- (a) no earlier than the closing time for valid nominations – collect from the Club’s postal address, in person or by an agent, all posted nominations; and
  - (b) in the case of nominations received by post or hand – note on each nomination form the time and date of collection or receipt by the Public Officer or her or his agent; and

- (c) if the Secretary indicates, in the notice of meeting, that proxies may be transmitted electronically to the Public Officer – attach to each proxy evidence of the time and date of receipt.
- (4) For the purposes of paragraphs (1)(g) and (3)(b), a nomination received by post and collected at any time on the day before the annual general meeting is taken to have been received at least 25 hours before the time notified for commencement of the annual general meeting.
  - (5) As soon as practicable after the closing time for nominations and prior to the meeting, the Treasurer and Public Officer must meet to verify nominations and prepare a list of candidates nominated for election in valid nominations.
  - (6) Before the election of Committee members at the annual general meeting, the person presiding at the meeting must read out to the meeting a list of the valid nominations received prior to the meeting.
  - (7) Any challenge to the validity or invalidity of a nomination must be dealt with immediately by a conference of the Public Officer, the Treasurer, the Returning Officer and the member disputing the validity or invalidity of the nomination.
  - (8) At a conference under sub-section (7), the Returning Officer is bound by the provisions of this Constitution and the Returning Officer's decision is final.
  - (9) If no more than 1 nomination is received to fill a position of Executive office-bearer, the nominee is taken to be elected.
  - (10) If there are insufficient nominations to fill all the positions of general Committee member, the nominees are taken to be elected.
  - (11) If more than 1 member nominates for a position, a secret ballot for that position must be held.
  - (12) If any position remains unfilled after the operation of sub-sections (9), (10) and (11), further nominations must be called from the floor of the annual general meeting.
  - (13) The election of nominees put forward from the floor is to be determined in accordance with sub-sections (7) to (11) inclusive.
  - (14) The Returning Officer for the ballot must not disclose to anyone any part of the count in the ballot for a position until the count is finalized and presented to the person presiding at the meeting.
  - (15) For the purposes of sub-section (14), in the case of general Committee members, the count is not finalized until votes for all vacant positions are counted.
  - (16) The nominee polling the highest number of votes in a ballot is taken to be elected to the position.
  - (17) If a ballot is held simultaneously for more than 1 position of general Committee member, the nominees are elected in the order of the greater or greatest number of votes polled.

- (18) If insufficient further nominations are received from the floor, any vacant positions remaining on the Committee are taken to be vacancies for the purposes of subsection 40(4).
- (19) The Committee must appoint 1 or more of the general Committee members to the position of Membership Secretary at the first Committee meeting following the election of Committee members and, if a vacancy in the position subsequently arises, no later than the first Committee meeting following the vacancy.

#### **43. Secretary's responsibilities**

- (1) In addition to responsibilities conferred by custom of the Committee, the Secretary must faithfully discharge the duties and exercise the powers prescribed in the Act, the Regulation and this Constitution.
- (2) In particular, the Secretary must report to each Committee meeting on correspondence between the Club and other parties and must keep minutes of—
  - (a) all elections and appointments of Committee members and office-bearers; and
  - (b) the names of members present at a Committee meeting or a general meeting; and
  - (c) all proceedings at Committee meetings and general meetings.
- (3) The Secretary must—
  - (a) circulate draft minutes of a Committee meeting to Committee members within 3 weeks of the occurrence of a Committee meeting; and
  - (b) circulate draft minutes of a general meeting to Club members within 6 weeks of the occurrence of a general meeting; and
  - (c) in preparing minutes for presentation and endorsement at a Committee or general meeting, take account of suggested corrections received within a reasonable time.
- (4) The Secretary must draw to the President's attention without delay any urgent matters arising in correspondence and any urgent membership matters brought to the Secretary's notice.
- (5) Subject to the Act, other provisions of this Constitution and direction of the Committee, the Secretary must have custody and control of the records of the Club, and of the common seal.

*Note:* See Constitution sections 45, 47, 68 and 71-74.
- (6) The Secretary must make the records of the Club available for inspection without delay to the registrar-general, the Auditor or the Committee when requested.
- (7) The Secretary must not hold the position of Public Officer.

#### **44. Endorsement of minutes of Committee and general meetings**

The person presiding at—

- (a) the next meeting of the Committee following a Committee meeting; and

(b) the next general meeting following a general meeting  
must sign the minutes of the previous Committee meeting or general meeting as the case may be.

*Note:* See Act sub-section 55(1).

#### **45. Treasurer's responsibilities**

- (1) The Treasurer must faithfully discharge the duties and exercise the powers prescribed in the Act, the Regulation and this Constitution.
- (2) In particular, the Treasurer must—
  - (a) collect, receive and issue receipts for all amounts paid to the Club; and
  - (b) make all payments authorized by the Club; and
  - (c) keep and maintain correct accounts, books and records showing the financial affairs of the Club with full details including—
    - (i) purpose of all receipts and expenditure; and
    - (ii) property, assets (including amounts owing to the Club) and liabilities connected with the Club's activities; and
  - (d) pay all moneys received on behalf of the Club into the Club's bank account as soon as possible after receipt and without deduction; and
  - (e) report to each Committee meeting on the state of the Club's finances; and
  - (f) maintain and provide to the auditor without delay an up-to-date list of all accounts, books and records of the Club; and
  - (g) subject to direction by the Committee, have custody of the Club's accounts, books and records; and
  - (h) make the Club's accounts, books and records available for inspection without delay to the registrar-general, the auditor or the Committee when requested.
- (3) The Treasurer must draw to the President's attention without delay any urgent financial and any urgent membership matters brought to the Treasurer's notice.

#### **46. Controls on Committee's dealings with Club moneys**

- (1) All cheques and other negotiable instruments drawn on the Club's account must be signed by the Treasurer and either of the following—
  - (a) the President; or
  - (b) the Secretary.
- (2) The Committee must appoint one of its members, other than the President or Secretary, as Acting Treasurer in the temporary absence of or vacancy in the office of the Treasurer.



- (3) In the absence of the President and Secretary, the Committee must appoint one of its members, other than the Treasurer or Acting Treasurer, as signatory to the Club's cheques.
- (4) A member of the Committee must not—
  - (a) draw a cheque or other negotiable instrument on the Club's account except in payment of expenditure that has been approved by the Committee; and
  - (b) make a payment greater than \$100 or such increased amount as members may approve in general meeting, except by cheque drawn on the Club's account in accordance with this section.
- (5) The Committee may approve the reimbursement of Committee members for urgent or minor sums expended on the Club's account, provided—
  - (a) any sum expended does not exceed the expenditure limit referred to in paragraph 4(b); and
  - (b) receipts describing the purpose of such expenditures are produced to the Treasurer.
- (6) The Committee may receive from the Club's bank for the time being cheques drawn by the Club on any of its accounts with the bank.
- (7) The Committee must indemnify the bank against all claims, actions, suits or demands that may be brought against the bank arising directly or indirectly from the surrender of those cheques to the Club.

#### **47. Membership Secretary's responsibilities**

- (1) The Membership Secretary must faithfully discharge the duties and exercise the powers prescribed in this Constitution, particularly with respect to Part 3.3.
- (2) The Membership Secretary must also—
  - (a) promptly respond to queries from enquirers about membership, nominees for membership and members; and
  - (b) faithfully discharge any additional duties conferred by the Committee with respect to promotion of the Club in the community and recruitment of new members to fulfil the Objects of the Club; and
  - (c) in consultation with the Committee and sub-committee, co-operate in the work of any sub-committee that the Committee may form for the same purposes as those mentioned in paragraph (b).
- (3) In consultation with the Treasurer, the Membership Secretary must—
  - (a) keep and maintain, in a register of members, up-to-date and accurate particulars of members and, in separate schedules, past and probationary members; and
  - (b) keep and maintain accurate contact details of persons who indicate that they are prospective members; and

- (c) prepare and present to the Committee monthly reports on the current ratio between male and female members.
- (4) The Membership Secretary must keep and maintain—
  - (a) records of membership enquiries and applications; and
  - (b) reports on probationary members.
- (5) Subject to direction by the Committee, the Membership Secretary must have custody of the Club's membership records.
- (6) The Membership Secretary must draw to the President's attention without delay any urgent membership matters.

#### **48. Vacation of the position of Committee member and Public Officer**

The office of an office-bearer including the Public Officer and the position of a Committee member become vacant if the member—

- (a) dies; or
- (b) ceases to be a member of the Club; or
- (c) becomes an unfinancial member of the Club; or
- (d) ceases to have membership rights; or
- (e) resigns the office or position; or
- (f) is removed from the office or position under section 49; or
- (g) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* (Cth); or
- (h) suffers from mental or physical incapacity; or
- (i) is disqualified from office under the Act, section 63; or
- (j) in the case of a Committee member – is absent without leave of the Committee from 3 consecutive meetings of the Committee.

#### **49. Removal of Committee members**

Subject to according the Committee member natural justice, the Club in general meeting may by resolution remove any member of the Committee from an office and position as a member of the Committee before the end of the member's term of office.

#### **50. Committee meetings and quorum**

- (1) The Committee must meet at least once in each month at the Club's grounds, *Thullande*, or such other place and at such other times as the Committee may decide.
- (2) The Secretary must give all Committee members written or, failing that, oral notice of the meeting and a written agenda prepared from suggestions by Committee members.

- (3) A quorum for the transaction of the business of a meeting or Special Meeting of the Committee comprises—
  - (a) 5 members; or
  - (b) if 7 or fewer members are elected or appointed to the Committee, 4 members.
- (4) Subject to sub-section 41(2)—
  - (a) the Committee must not transact business unless a quorum is present; and
  - (b) if a quorum is not present within half an hour after the time notified for the meeting, the meeting will stand adjourned to the same place and time or to an alternative place and time in the following week to be notified to Committee members after consultation; and
  - (c) if, at the adjourned meeting, a quorum is not present within half an hour after the time appointed for the meeting, the meeting is dissolved.
- (5) At meetings of the Committee—
  - (a) the President or, in the absence of the President, the Vice-President presides; or
  - (b) if the President and the Vice-President are absent – the remaining members must choose one of their number to preside.
- (8) Questions arising at a meeting are to be determined by—
  - (a) consensus; or
  - (b) failing consensus, on a show of hands; or
  - (c) if required by a member – a poll taken in such manner as the person presiding at the meeting decides.
- (9) Each member present at the meeting is entitled to 1 vote, and the person presiding at the meeting has a casting vote in the event of an equality of votes on a question.

## **51. Special meetings of the Committee**

- (1) The President or any 4 members of the Committee may convene a special meeting of the Committee.
- (2) The Secretary must give all Committee members oral or written notice of a special meeting of the Committee without delay.
- (3) The notice of a meeting given under sub-section (3) must specify the nature of the business to be transacted at the meeting.
- (4) The Committee must not transact any business other than that specified in the notice of meeting, except business that the Committee members present at the meeting agree to treat as urgent business or business necessarily connected with the notified business of the meeting.
- (5) In all other respects, the Committee must follow the procedures for a meeting under section 50.

## 52. Sub-committees and delegation of Committee functions

- (1) The Committee may, in writing or by minuted decision of the Committee, delegate to 1 or more sub-committees (consisting of members of the Club and any non-members that the Committee considers appropriate) the exercise of the functions and powers of the Committee that are specified in the instrument, other than—
  - (a) this power of delegation; or
  - (b) a function or duty imposed on the Committee by the Act, by any other Territory law, or by resolution of the Club in general meeting; or
  - (c) a function or duty imposed on the Executive Committee or an Executive office-bearer of the Club.
- (2) While the delegation remains unrevoked, a function delegated to a sub-committee may be exercised in accordance with the terms of the delegation.
- (3) A delegation may specify any conditions or limitations about—
  - (a) the exercise of a function; or
  - (b) the time or circumstances in which the delegation may be exercised.
- (4) The Committee may continue to exercise any function that has been delegated.
- (5) Subject to sub-section (3), any act or thing done or accepted by a sub-committee acting in the exercise of a delegation has the same force and effect as it would have if it had been done or accepted by the Committee.
- (6) The Committee may, in writing, revoke wholly or in part any delegation.
- (7) A quorum of a sub-committee comprises 2 members of the Club.
- (8) A person who is appointed to a sub-committee but is not a member of the Club does not have voting rights on an issue before the sub-committee, but does have a right of comment to the Committee.
- (9) Nothing in this section prevents the Committee from delegating, in accordance with this section, its functions and powers to resolve disputes between members or between members and the Club.

## 53. Disclosure of interests

- (1) The Committee and each Committee member must observe the provisions of section 65 of the Act ('Disclosure of committee member's interest').
- (2) In particular, a Committee member who is interested, directly or indirectly, in any contract or arrangement with the Club that has been made or is proposed to be made with the Club must disclose that interest—
  - (a) if the contract or arrangement is on foot at the time of the member's election or appointment to the Committee – at the first meeting of the Committee that the member attends; and
  - (b) if the member acquires the interest in a contract or arrangement or proposed contract or arrangement after her or his election or appointment to the

Committee – at the first meeting of the Committee after the member acquires the interest; and

- (c) at the first meeting of the Committee, following election or appointment of the Committee member, at which the contract or arrangement or proposed contract or arrangement is considered or further considered by the Committee.
- (3) A member of the Committee having an interest, direct or indirect, in any contract or arrangement or proposed contract or arrangement, must not vote on the matter—
- (a) as a member of the Committee; and
  - (b) if the matter is before the Club in general meeting – as a member of the Club.

#### **54. Power to make by-laws and guidelines**

- (1) The Committee has power to make by-laws and to issue guidelines in support of the Objects and Rules of the Club.
- (2) By-laws and guidelines must not be inconsistent with the Act, the Regulation or this Constitution.
- (3) Before making a by-law or issuing a guideline, the Committee first must issue to members an exposure draft of the proposed by-law or guideline and take into account comments received within a reasonable time on the exposure draft.
- (4) A by-law or guideline is made—
  - (a) subject to paragraph (b), by minuted decision of the Committee made by consensus or passed by at least a 75% majority of Committee members, provided Committee members have been given notice of the proposed by-law or guideline in accordance with sections 50 or 51; or
  - (b) if members requisition a general meeting to consider the by-law or guideline – by resolution passed at a general meeting of the Club.
- (5) A by-law or guideline when made comes into effect—
  - (a) unless members requisition a general meeting to consider the by-law or guideline – 28 days after publication of the by-law or guideline to members in the Club’s newsletter; or
  - (b) if members requisition a general meeting to consider the by-law or guideline – on publication of—
    - (i) the by-law or guideline if passed by members; or
    - (ii) the by-law or guideline as revised by members in the Club’s newsletter.
- (6) The Committee must publish to members without delay a new by-law or guideline when made.
- (7) A by-law or guideline does not have retrospective effect.

*Note:* See the Constitution Dictionary for definitions of ‘by-law’ and ‘guideline’.

## **55. Amendment or rescission of by-laws and guidelines**

- (1) Subject to this section, the Committee has power, in support of the Objects and Rules of the Club, to amend or rescind by-laws and guidelines.
- (2) If the Committee proposes to amend or rescind a by-law or guideline, the Committee first must issue to members an exposure draft of the proposed amendment or rescission and take into account comments received within a reasonable time on the exposure draft.
- (3) A by-law or guideline is amended or rescinded—
  - (a) subject to paragraph (b), by minuted decision of the Committee made by consensus or passed by at least a 75% majority of Committee members present and voting, provided Committee members have been given notice of the proposed amendment or rescission in accordance with sections 50 or 51; or
  - (b) if members requisition a general meeting to consider the amendment or rescission – by resolution passed at a general meeting of the Club.
- (4) An amendment to or a rescission of a by-law or guideline comes into effect—
  - (a) unless members requisition a general meeting to consider the amendment or rescission – 28 days after publication to members of the amendment or rescission in the Club’s newsletter; or
  - (b) if members requisition a general meeting to consider the amendment or rescission – on publication of—
    - (i) the amendment or rescission if passed by members; or
    - (ii) the amendment as revised by membersin the Club’s newsletter within 7 days after the meeting.
- (5) The Committee must publish without delay a new by-law or guideline when made.
- (6) An amendment to or rescission of a by-law or guideline does not have retrospective effect.

## **56. Members’ power to initiate amendments to or rescission of by-laws and guidelines**

- (1) One or more members can initiate an amendment to or rescission of a by-law or guideline by—
  - (a) approaching the Committee to amend or rescind the by-law or guideline; or
  - (b) preparing and requiring the Committee to circulate to members an exposure draft of the proposed by-law or guideline.
- (2) If the approach described in paragraph (1)(a) is followed, the Committee must follow the process described in section 55 if it decides to amend or rescind the by-law or guideline.

- (3) If the approach described in paragraph (1)(b) is followed—
- (a) the member or members proposing the amendment or rescission must take into account any comments received on the Exposure Draft and, if there are sufficient requisitionists, may then requisition a general meeting as provided in section 58;
  - (b) if a general meeting is held – the provisions of paragraphs 55(3)(b) and (4)(b) and sub-section 55(5) apply.
- (4) The Committee must publish without delay a new by-law or guideline when made.
- (5) An amendment to or rescission of a by-law or guideline under this section does not have retrospective effect.

### 3.5 General meetings

#### 57. Annual general meeting

- (1) The Committee must convene an annual general meeting of members in each financial year.
- (2) The Committee must determine a date for the meeting that is as soon as possible after 1 August and not later than 30 September in any financial year.
- (3) The business of the meeting is as follows—
  - (a) to confirm the minutes of the previous annual general meeting and of any general meeting held since that meeting; and
  - (b) to receive and consider the statement of accounts and the reports that are required, under sub-section 73(1) of the Act, to be submitted to members; and

*Note:* The Act requires the Committee to present to the meeting the audited statements of the Club's accounts, the auditor's report and a report signed by 2 Committee members giving particulars of Committee membership during the year; principal activities of the Club and any significant change in the nature of those activities; and the net profit or loss of the Club for the financial year – see Act, sub-section 73(1).
  - (c) to receive any other reports of which notice has been given; and
  - (d) to appoint an auditor for the coming financial year; and
  - (e) to discuss and confirm the auditor's remuneration for the coming financial year; and
  - (f) to elect members of the incoming Committee, including office-bearers; and
  - (g) to transact the unfinished business of any general meeting dissolved or adjourned since the previous annual general meeting; and
  - (h) to transact business that has been notified to the Secretary in advance of the meeting as follows—
    - (i) in the case of business that requires a special resolution to pass – at least 28 days before the date of the meeting; and
    - (ii) in the case of other business – at least 21 days before the date of the meeting.
- (4) The Committee must—
  - (a) indicate to the auditor at the time of the auditor's appointment the expected date of the next annual general meeting following her or his appointment; and
  - (b) take reasonable steps to ensure that the audit of the Club's accounts is completed at least 14 days before the audited statement of accounts is required to be presented at the annual general meeting.



- (5) The only business that the meeting may transact is business described in sub-section (3) that has been notified to members by the Secretary in accordance with section 59.
- (6) Sub-section (5) does not prevent the person presiding at the meeting from opening for general discussion any other issues raised by members, but the outcome of discussion does not bind the Committee or Club.
- (7) In giving notice of the meeting, the Secretary must—
  - (a) specify that the meeting is the annual general meeting of members; and
  - (b) include a copy of the auditor’s report and audited statement of accounts of the Club for the financial year, if available to the Committee at that time; and
  - (c) if the audited report and audited statement of accounts are not available to the Club when the Secretary gives notice of the meeting – transmit the audited accounts to members as soon as they become available.

*Note:* See section 59 for requirements for giving notice of general meetings.
- (8) The person presiding at an annual general meeting must conduct the meeting in accordance with this Part of the Constitution.

## 58. General meetings

- (1) In addition to the Committee’s obligation to call an annual general meeting under section 57, when the Committee desires or requires the views of members on an issue it may call a general meeting of the Club.
- (2) The Committee must call a general meeting—
  - (a) when a member notified of a decision on a disciplinary resolution requisitions an appeal to a general meeting of members in accordance with section 35; or
  - (b) when not less than 10 members, whether in one or several signed documents, requisition a general meeting to consider an issue and any motion notified in writing to the Secretary; or
  - (c) when any course of action is proposed by the Committee that would prejudice, terminate or prevent renegotiation of the lease over the Club’s grounds at Block 64, District of Kowen, as delineated on Deposited Plan Number 5218.

*Note:* See also section 83.
- (3) The Committee must set and notify a date for a general meeting that is no later than 56 days after the date on which the Secretary receives a requisition under sub-section (2).
 

*Note:* The *Legislation Act 2001*, in section 250, has rules as to when a document (in this case, a requisition) is taken to be served on a person (in this case, the Secretary).
- (4) If the Committee does not, in accordance with sub-section (3), call a general meeting requisitioned by members under paragraph (2)(b), any 1 or more of those members may call a general meeting to be held not later than 3 months after the date on which the Secretary received the requisition.

- (5) A general meeting requisitioned by members under paragraph (2)(b) must be called as nearly as practicable in the same way as general meetings are called by the Committee.
- (6) The Committee must co-operate with members calling a meeting under sub-section (4) by instructing the Club's membership database manager to—
- (a) circulate without delay a notice of general meeting prepared by requisitionists to members of the Club, but not so as to disclose members' contact details to the requisitionists; and
  - (b) furnish without delay to the requisitionists a list of the names of members to whom the notice was sent, when that has been done.
- Note:* See sections 71, 74 and 80 regarding privacy of members' personal information.
- (7) Sub-sections (3) to (6) inclusive do not operate if the Secretary receives the requisition in a time period that would meet the requirements of sub-section 59(6) and the Committee calls a general meeting in accordance with section 59 and includes in the notice of meeting the issue and any notice of motion proposed by the requisitionists.

## 59. Notice and business of general meetings

- (1) The Secretary must send to each member at the member's address appearing in the register of members, a notice specifying the place, date and time of the meeting and the nature and items of business proposed to be transacted at a general meeting.
- Note:* The nature and items of business for transaction at an annual general meeting are set out in sub-section 57(3).
- (2) The Secretary must send the notice referred to in sub-section (1)—
- (a) at least 14 days before the date fixed for holding—
    - (i) the annual general meeting; or
    - (ii) any other general meeting,unless the nature of business proposed to be dealt with would require a special resolution of the Club; or
  - (b) at least 21 days before the date fixed for holding a general meeting (including the annual general meeting) at which any of the business proposed to be dealt with would require a special resolution.
- (3) In a notice under paragraph (2)(b), the Secretary must—
- (a) identify any items of business that would require a special resolution to pass; and
  - (b) state that it is intended to propose the resolution as a special resolution; and
  - (c) state the meaning of a 'special resolution'.

*Note:* The term 'special resolution' is defined in the Constitution Dictionary.

- (4) The Club must not transact any business other than that specified in the notice calling a general meeting.
- (5) A member who wishes to bring any business before a general meeting may give written notice of that business to the Secretary.
- (6) The Secretary must include that business in the next notice calling a general meeting, provided the Secretary receives the member's written notice of business—
  - (a) if the business would not require a special resolution to pass – at least 21 days before the date fixed for calling a general meeting; or
  - (b) if the business would require a special resolution to pass – at least 28 days before the date fixed for calling a general meeting.

#### **60. Quorum at general meetings**

- (1) The Club must not transact any item of business at a general meeting unless a quorum of members entitled under this Constitution to vote—
  - (a) in the case of a meeting to consider a disciplinary resolution – is present in person during the time the meeting is considering that item; or
  - (b) in all other cases – is present in person or represented by proxy during the time the meeting is considering that item.
- (2) In the case of a meeting to consider a disciplinary resolution, the larger of 20% of the number of financial members of the Club or 20 financial members (in either case not including probationary members) present in person constitutes a quorum to transact business at the meeting.
- (3) In all other cases, the larger of 25% of the number of financial members of the Club or 25 financial members (in either case not including probationary members) present in person or represented by proxy constitutes a quorum to transact business at the meeting.
- (4) If within 1 hour after the time notified for the start of a general meeting a quorum is not present—
  - (a) in the case of an annual general meeting – the members present in person or represented by proxy are taken to be a quorum;
  - (b) in all other cases – the meeting is dissolved and the Secretary must, when giving notice of the next annual general meeting, notify the items of business of the dissolved meeting as items of business for that meeting.
- (5) If business of a general meeting is deferred to the next annual general meeting as provided in paragraph (4)(b)—
  - (a) in the case of a disciplinary resolution – the procedure to be followed at the meeting is as set out in section 36, with the exception of paragraph 36(1)(a), which is to be disregarded;
  - (b) in all other cases – the procedure to be followed at the meeting is as provided in this Part.

## 61. Presiding member at general meetings

- (1) The President, or in the absence of the President, the Vice-President, must preside at each general meeting of the Club.
- (2) If the President and the Vice-President are—
  - (a) absent from a general meeting; or
  - (b) vacate the chair during the conduct of a ballot for the election of office-bearers and members of the Committee

the members present must elect 1 of their number to preside at the meeting during the time the President or Vice-President are absent or unavailable to preside.

## 62. Adjournment of general meetings by consent

- (1) The person presiding at a general meeting at which a quorum is present may, with the consent of the majority of members present in person or by proxy at the meeting, adjourn the meeting from time to time and place to place.
- (2) If a general meeting is adjourned for 14 days or more, the Secretary must give written or oral notice of the adjourned meeting to each member of the Club stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.

## 63. Voting and proxies

- (1) Each financial member of the Club, other than a probationary member, is entitled to 1 vote on each question arising at a general meeting, except as follows—
  - (a) each Committee member, the member the subject of a disciplinary resolution and any representative of that member will not have a right to vote in the secret ballot referred to in section 36 on the question of whether or not a suspension or expulsion decided by the Committee will stand; and
  - (b) no proxy will be accepted in respect of a secret ballot referred to in paragraph (a); and
  - (c) except in respect of a secret ballot referred to in paragraph (a) – a member presiding at a general meeting is entitled to exercise a second or casting vote in the event of an equality of votes on a question.
- (2) A member, other than a probationary member, who is unable to be present at a general meeting may give a power to vote by proxy to another member, other than a probationary member, **provided:** before the document evidencing the proxy is transmitted to the Public Officer, the proxy-giver and the proxy must be financial members.
- (3) The document evidencing the proxy must be in writing, signed and dated by the member giving the proxy and by the member to whom it is given and must contain the following particulars—
  - (a) the names of each party to the proxy, shown legibly; and

- (b) the date of the meeting at which the proxy is to be exercised; and
  - (c) the voting directions of the member giving the proxy on each item of business; or
  - (d) if the proxy-giver wishes – a statement that the proxy is free of limitations as to how the proxy may vote.
- (4) If a proxy form does not give voting directions, the proxy will be taken to be free of limitations as to how the proxy-holder may vote, whether or not the proxy contains a statement as provided for in paragraph (3)(d).
- (5) The Secretary must forward to members, with the notice of meeting, proxy forms that —
- (a) make provision for completion of—
    - (i) the details set out in paragraphs (3)(a), (c) and (d); and
    - (ii) telephone contact details including fixed and mobile numbers for the proxy-giver, for possible assistance in verifying the proxy; and

*Note:* The presence or absence of telephone contact details is not in itself determinative of the validity or invalidity of a proxy.
  - (b) state the date and time of the meeting at which the proxy is to be exercised; and
  - (c) state prominently the final time, day and date by which proxies will be accepted; and
  - (d) state that late proxies will not be counted in any vote at the meeting; and
  - (e) state that proxies should be addressed and returned to the Public Officer; and
  - (f) give particulars of the address or addresses to which proxy forms may be transmitted or delivered.
- (6) Each completed proxy must be received by the Public Officer or her or his agent at least 25 hours before the time notified for commencement of the meeting and late proxies will not be considered.
- (7) The Public Officer must—
- (a) no earlier than the closing time for valid proxies – collect from the Club’s postal address, in person or by an agent, all posted proxies; and
  - (b) in the case of proxies received by post or hand – note on each proxy the time and date of collection or receipt by the Public Officer or her or his agent; and
  - (c) if the Secretary indicates, in the notice of meeting, that proxies may be transmitted electronically to the Public Officer – attach to each proxy evidence of the time and date of receipt.
- (8) For the purposes of sub-section (6) and paragraph (7)(b), a nomination received by post and collected at any time on the day before the annual general meeting is taken

to have been received at least 25 hours before the time notified for commencement of the annual general meeting.

- (9) As soon as practicable after the closing time for proxies and prior to the meeting, the Treasurer and Public Officer must meet to verify proxies and complete *pro forma* tables, provided by the Secretary for use by the Returning Officer in the course of the general meeting, of—
  - (a) any voting directions given by valid proxies; and
  - (b) in a separate table – the number of proxy votes held by each member who has been given a valid proxy that does not contain limitations as to how the proxy may vote.
- (10) At the general meeting for which proxies are received, the President must read out to all present at the commencement of the meeting a list of valid proxies received for the meeting.
- (11) Any challenge to the validity or invalidity of a proxy must be dealt with immediately by a conference of the Public Officer, the Treasurer, the Returning Officer and the member disputing the validity or invalidity of the proxy.
- (12) At a conference under sub-section (11), the Returning Officer is bound by the provisions of this Constitution and the Returning Officer’s decision is final.
- (13) Each proxy expires 3 months after the date of signature of the member giving the proxy.

#### **64. Decision-making at general meetings**

- (1) A question arising at a general meeting is to be decided on a show of hands unless paragraph 36(1)(i), sub-section 60(5) or section 65 apply.
- (2) A declaration by the person presiding that a resolution has, on a show of hands, been —
  - (a) carried unanimously; or
  - (b) carried; or
  - (c) carried by a particular majority; or
  - (d) lost; and

an entry to that effect in the minutes of meeting, is evidence of the fact without proof of the number or proportion of votes recorded in favour of or against that resolution.

#### **65. Taking and timing of a poll**

- (1) The person presiding at a general meeting or 3 or more members present in person or by proxy may demand—
  - (a) before; or
  - (b) at the declaration of the show of hands,that the Returning Officer take a poll of members on a matter.

- (2) If demanded, the Returning Officer must take a poll—
  - (a) immediately if the poll relates to the election of the person to preside at the meeting or to the question of an adjournment; or
  - (b) in any other case – in the way and at the time before the close of the meeting that the person presiding directs.
- (3) In the event of an equality of votes in a poll, paragraph 63(1)(c) applies.
- (4) Subject to sub-section (3), the resolution of the poll on the matter is taken to be the resolution of the meeting on that matter.

## **66. Responsibilities and appointment of Returning Officer**

- (1) At a general meeting, the Returning Officer is responsible for conducting—
  - (a) the ballot for the election of officer-bearers and general members of the Committee; and
  - (b) the ballot on a disciplinary resolution; and
  - (c) a poll; and
  - (d) determining the validity or invalidity of a proxy or nomination in accordance with section 63; andreporting the results to the person presiding at the meeting and to the Secretary.
- (2) The Returning Officer need not be a member of the Club but must be acceptable to the meeting.

### 3.6 Club documents and records — audit, reporting and access

#### 67. Appointment of auditor

- (1) At each annual general meeting of the Club, the members must appoint an auditor.
- (2) The auditor must be a licensed public accountant or registered auditor and entirely independent of the Club and its members.

*Note:* See section 1280 of the *Corporations Act 2001* for registration of auditors.
- (3) The auditor holds office until the annual general meeting following her or his appointment, and is eligible for reappointment.
- (4) If a casual vacancy occurs in the office of auditor during the financial year, the Committee must without delay appoint another auditor who satisfies the requirements of sub-section (2).
- (5) The Committee must without delay notify members of the appointment of an auditor under sub-section (4).
- (6) A person appointed as auditor under sub-section (4) holds office until the annual general meeting following her or his appointment but is eligible for reappointment.
- (7) In appointing the auditor, the Committee must—
  - (a) indicate to the auditor the expected date of the next annual general meeting following her or his appointment; and
  - (b) request that the auditor’s report on the financial affairs of the Club for the year be provided to the Club no later than 14 days before that expected date.

#### 68. Auditor’s powers and duties

- (1) In addition to reporting to members of the Club in accordance with the Act and other legislation and professional codes applying to public accountants and registered auditors, the auditor must—
  - (a) report to members as to whether or not the accounts of the Club correctly show the financial affairs of the Club; and
  - (b) state—
    - (i) whether she or he has obtained all of the information that she or he required for the audit; and
    - (ii) whether, in the auditor’s opinion, the accounts are properly drawn up so as to exhibit a true and fair view of the financial position and financial performance of the Club; and
    - (iii) whether the provisions of the Act, this Constitution and of any relevant by-laws and guidelines of the Club relating to the administration of the funds of the Club have been observed.



- (2) In addition to the auditor's powers and duties under the Act, the auditor—
- (a) has a right of access to all accounts, books, records and documents of the Club; and
  - (b) may require from any member of the Committee or contractor or employee of the Club any information and explanations the auditor desires for the purpose of auditing the Club's accounts; and
  - (c) may examine any member of the Committee or contractor or employee of the Club in relation to the Club's accounts, books, records and documents; and
  - (d) may employ persons to assist in investigating the Club's accounts.

### **69. Appointment and removal of Public Officer**

- (1) The Committee must appoint a Public Officer within 14 days after a vacancy occurs in that office.

*Note:* See Act, section 64.

- (2) The Public Officer holds office unless and until the Public Officer—
- (a) resigns the position; or
  - (b) subject to according the Public Officer natural justice – is dismissed by resolution of the Committee for failure to faithfully discharge her or his responsibilities under the Act, the Regulation or this Constitution; or
  - (c) subject to according the Public Officer natural justice – is dismissed by resolution of a general meeting for failure to faithfully discharge her or his responsibilities under the Act, the Regulation or this Constitution; or
  - (d) vacates her or his position as Public Officer for any of the causes set out in paragraphs 48(a)-(i); or
  - (e) becomes disqualified under section 63 of the Act from holding office.

### **70. Public Officer's responsibilities**

- (1) The Public Officer must lodge with the registrar-general—
- (a) without delay and within the timeframes provided by the Act so as to avoid late fees; and
  - (b) on the approved forms,

all information required by the Act to be lodged with the registrar-general.

*Note:* See Act, sub-sections 30(2) and 33(2), sections 59 and 62, paragraph 67(2)(b) and sub-section 79(1); Regulation, Part 2; and approved forms listed under the Act at [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

- (2) The Public Officer must transmit copies of all lodgements to members of the Committee.

- (3) The Public Officer must discharge the duties of Secretary to satisfy the requirements of the Act during a vacancy in that office but only until the Committee or a general meeting appoints or elects a new Secretary or acting Secretary.

*Note:* See Act, section 55 and Act Dictionary definition of ‘officer’; and Model Rules, section 1, definition of ‘secretary’.

- (4) Subject to sub-section (3), the Public Officer must not hold the office of Secretary.

- (5) The Public Officer must discharge the duties set out in sections 42 (in relation to receipt of nominations for positions on the Committee) and 63 (in relation to receipt of proxies) of this Constitution and any other duties required to be performed by legislation.

*Note:* See Act, section 91 and Schedule 2, [2.5](f)(vi).

- (6) When the circumstances require, the Public Officer must remind the Committee of the requirements of the Act in relation to the appointment of a public officer and lodgement of annual returns with a view to ensuring compliance by the Club with those provisions of the Act.

*Note:* See Act, sections 57, 63, 64 and 79.

- (7) The Public Officer must, without delay—

- (a) bring to the Committee’s attention any document served on her or him—

(i) in her or his capacity as Public Officer; or

(ii) in lieu of the Secretary of the Club; or

(iii) in any other capacity as a representative of the Club; and

- (b) notify the Committee if she or he becomes disqualified from holding office as Public Officer.

*Note:* See Act, section 63.

## **71. Custody of Club records**

- (1) On taking office by election or appointment, members of the Committee and the Public Officer (whether or not she or he is a Committee member) are taken to acknowledge that—

(a) the records of the Club are the property of the Club and may include information that is confidential to the Club and may include records such as the membership database that contain personal information; and

(b) those records may not be applied for any purpose other than a purpose that has been approved by the Committee for furthering the Objects of the Club; and

(c) the Club’s officers are responsible for maintaining the confidentiality of confidential information and the privacy of personal information in the Club’s records.

- (2) Committee members who are Club office-bearers having custody from time to time of the Club's records have no property rights in those records and—
  - (a) must not make copies for personal or other non-Club use; and
  - (b) must without delay make records available to the registrar-general, the auditor and the Committee when requested, and, as provided in section 74, to members of the Club.

*Note:* see sections 12 and 74 and sub-section 58(6) of this Constitution; sections 67 and 75 and Part 8 of the Act; and sections 12 and 30 of the *Human Rights Act 2004*.

- (3) The obligations under sub-sections (1) and (2) continue indefinitely after the term of service or appointment of the Committee member or Public Officer ceases.
- (4) The President may require Committee members and the Public Officer from time to time to sign an acknowledgement in terms of sub-sections (1), (2) and (3), but any such acknowledgement does not diminish the effect of those sub-sections.

## **72. Custody and use of Club seal**

- (1) The seal of the Club is in the form of a rubber stamp, inscribed with the name of the Club, encircling the words 'COMMON SEAL'.
- (2) The seal of the Club may only be affixed to a document in the following way—
  - (a) the Committee must have authorized by resolution the affixing of the seal to the particular document; and
  - (b) 2 members of the Committee or the Secretary and 1 other Committee member must attest to the affixing of the seal by signing the document adjacent to the seal at the time the seal is affixed.
- (3) Subject to direction of the Committee, the Secretary must retain custody of the seal of the Club.

## **73. Signature of Committee members in lieu of Club seal**

If, in lieu of affixing the common seal of the Club to a document in accordance with section 72, 2 or more members of the Committee execute a document by signing it on behalf of the Club, the Committee must have authorized by resolution those Committee members to sign the particular document.

## **74. Members' rights to inspect Club accounts and other Club records**

- (1) The right to inspect documents referred to in sub-section (2) is limited to financial members but does not extend to probationary members.
- (2) On request the Committee must, without delay, make available to inspect in the ACT such records, books and other documents of the Club as are requested by a member, *provided that* the Secretary must first vet each document requested so as to ensure that, before the Club makes the document available for inspection, the Club ensures that the content of the document—

- (a) complies with—
    - (i) the Club’s obligations under the *Privacy Act 1988* (Cth); and
    - (ii) any legal or equitable confidentiality obligations of the Club, and
  - (b) gives effect to the human right to privacy and reputation recognized in section 12 of the *Human Rights Act 2004*.
- (3) The Committee may specify only reasonable restrictions as to time and place and manner of inspecting documents.
  - (4) The Committee must not designate information as ‘confidential’ so as to protect it from unqualified access by members if there is no legal or equitable basis for designating the information as confidential.
  - (5) A member dissatisfied with a decision of the Secretary to withhold a document or part of a document under sub-section (2) may request the Committee to review the Secretary’s decision.
  - (6) In consultation with members, the Committee must prepare and issue guidelines to assist it to promptly comply with its obligations under sub-sections (2), (3), (4) and (5).

#### **75. Backup and archiving of Club records**

- (1) Each member of the Committee must implement and maintain a system to retain a copy of each paper document and must back up electronic records of documents that the member—
  - (a) transmits to Club members or external parties or receives from members or external parties on behalf of the Club or Committee; and
  - (b) creates for the information of Committee members.

*Examples:* reports by the Membership Secretary, Treasurer’s reports.
- (2) In consultation with members, the Committee must develop guidelines for the purposes of—
  - (a) sub-section (1); and
  - (b) the internal retention and archiving of Club records; and
  - (c) the offering of Club records to the National Library of Australia when appropriate to do so; and
  - (d) the disposition of Club records in the event of the Club’s being wound up.

#### **76. Handover of Club records**

- (1) Following each election or appointment of office-bearers and general Committee members and appointment of the Public Officer, each outgoing office-bearer, general Committee member and Public Officer must, without delay—
  - (a) account to the outgoing and incoming Presidents jointly for that person’s holdings of Club records; and

- (b) in accordance with the incoming President's directions and sections 71 and 75, transfer her or his holdings of Club records to her or his incoming counterpart and to Club archives as directed.
- (2) Nothing in sub-section (1) prevents the President or Committee from time to time requiring a continuing office-bearer or general Committee member or Public Officer from accounting to the President or Committee for that person's holdings of Club records.

#### **77. Publication of Club Constitution on Club website**

The Committee must place the Constitution and any amendment to the Constitution on the Club website without delay after the document notifying the relevant change of Objects or Rules of the Club is lodged with the registrar-general.

*Note:* Sections 30 and 33 of the Act deal with alteration of the objects or rules of an association and require that the alteration be notified to the registrar-general within 1 month of its occurrence, when it becomes a public document – see section 11 of the Act.

#### **78. Publication of Club by-laws and guidelines on website**

- (1) Subject to sub-section (2), the Committee must place the Club by-laws and guidelines on the Club website without delay after by-laws and guidelines are made.
- (1) Sub-section (1) does not require the Committee to place on the website guidelines of a sensitive nature, such as procedures for handling and banking money and backing up Club records.

### **3.7 Information and privacy of members and prospective members**

#### **79. Principles for provision of information to nominees for membership**

(1) The form used by the Club for the nomination of new members should include the following information prominently, before the place for signature of the nominee—

- (a) a statement of the Objects of the Club; and
- (b) a description of the purpose of probationary membership; and

*Note:* See sub-sections 17(1) and (2).

- (c) a statement that members must observe the Club Constitution and by-laws; and
- (d) the location, on the Club's website, of the Club Constitution and by-laws; and
- (e) a short statement (a privacy statement) of the Club's policy for protecting the personal information of and about members.

*Note:* See sections 80 and 81.

(2) The Membership Secretary must—

- (a) before a nominee applies for membership – make available a copy of the Club Constitution and by-laws for inspection by the nominee and refer the nominee to the Club website if the nominee indicates that she or he has access to the internet; and
- (b) on acceptance of a nominee into probationary membership, if the probationary member indicates that she or he does not have access to the internet – provide the probationary member with by-laws and any guidelines applicable to general members, and, on request, a hard copy of the Club Constitution, subject to payment of a fee, set by the Committee from time to time, to recover costs of printing the documents; and
- (c) respond to or arrange for a response to be given by an appropriate Committee member to any queries from a nominee for membership or probationary member about the Club Constitution and by-laws.

#### **80. Principles for disclosure of personal information of or about members**

No member of the Club or Committee may disclose, to another member or non-member, personal information of or about another member except—

- (a) as provided in sections 34-37, for the purpose of initiating or carrying out disciplinary processes or a complaint to the Committee, registrar-general or police; or
- (b) as otherwise provided under this Constitution; or
- (c) as lawfully required by the registrar-general or auditor; or
- (d) as otherwise provided by law; or

(e) with the consent of the member concerned.

**81. Non-disclosure of personal information of or about enquirers, unsuccessful nominees and former members**

Section 80 also applies to the personal information of or about—

- (a) each person enquiring about membership of the Club, whether or not that person later becomes a member; and
- (b) each nominee not accepted into membership of the Club; and
- (c) each former member of the Club;

as if that person were a current member of the Club.

### 3.8 Club property and funds

#### 82. Income, property and obligations of the Club

- (1) The income of the Club is to be derived from—
  - (a) joining fees of members; and
  - (b) membership subscriptions; and
  - (c) donations to the Club from members or other persons or organizations, provided the donation is not for a purpose that conflicts with the Objects and Rules of the Club; and
  - (d) fund-raising functions conducted by and for members and by supporters of the Objects of the Club; and
  - (e) hire of the Club's property and facilities to other groups for their lawful purposes, provided that that is within the scope of the Club's insurances; and
  - (f) any other lawful source not specified above, provided it is within the Objects and Rules of the Club.
- (2) The Committee and each member of the Committee and Club who handles or uses the Club's income or property—
  - (a) must apply that income or property solely towards the promotion of the Objects of the Club; and
  - (b) must not pay or transfer, directly or indirectly, any part of that income or property to any member of the Club or to any other person.
- (3) The Committee and each member of the Committee and Club must not incur any obligation on behalf of the Club, Committee or member of the Committee except in accordance with—
  - (a) the duties of that person under this Constitution or a delegation from the Committee; and
  - (b) a resolution of the Committee in accordance with section 39 or a direction of the Executive Committee in accordance with section 41.
- (4) The Club and Committee must not—
  - (a) appoint a member of the Committee or the Public Officer, whether or not that person remains a member of the Committee or remains the Public Officer, to any position for which remuneration is payable, whether by way of salary, fees, allowances or otherwise; or
  - (b) pay to any such person any other benefit in money or money's worth, other than the repayment of out-of-pocket expenses incurred in accordance with sub-section (3).



- (5) This section does not prevent the Committee from approving the payment in good faith to an employee or member of the Club of—
- (a) remuneration for—
    - (i) services not otherwise available free of cost to the Club and actually performed for the Club by the employee or member; or
    - (ii) goods supplied to the Club by the servant or member in the ordinary course of business or otherwise for value equivalent to that in an arm's length transaction; or
  - (b) interest on money lent to the Club by the employee or member at no more than the maximum rate that the Club earns from time to time on its savings at bank; or
  - (c) a sum by way of rent, independently assessed at no more than the current market rate, for premises let to the Club by the employee or member.

### **83. Dealings with Club land**

Unless resolved by special resolution at a general meeting, the Club and Committee must not take any action that would—

- (a) prejudice; or
- (b) prevent  
the renegotiation of, or—
- (c) terminate

the lease over the Club's grounds at Block 64, Kowen, as delineated on Deposited Plan Number 5218.

*Note:* See the Constitution Dictionary for definition of 'special resolution'.

### **84. Principles for use by members of Club land**

- (1) The Committee may only make available, and a member may only use a portion of the Club's grounds, known as a 'site', in accordance with the following principles—
- (a) the site is made available for a fee set annually by the Committee; and
  - (b) the site is made available only for temporary shelter and recreation during the member's visits to the Club grounds; and
  - (c) before allocating a site for continuing use by a member, the Committee must first—
    - (i) confirm the proposed use of the site; and
    - (ii) specify the site boundaries, area of the site and the site number in accordance with the fire plan; and
    - (iii) consider, and, if the proposal complies with relevant planning laws and Club by-laws and has regard to relevant guidelines issued by the Club – approve any structures on the site proposed at that stage; and

- (d) following allocation of a site, the Committee must without delay confirm the allocation of the site in a written agreement with the member before the member occupies the site; and
  - (e) the written agreement—
    - (i) must not be described as a ‘residential tenancy agreement’; and
    - (ii) must comply with the laws of the Territory and with this Constitution and with the by-laws and guidelines of the Club; and
  - (f) any structure on the site—
    - (i) must not be permanent; and
    - (ii) must comply with Territory planning laws; and
    - (iii) must not be erected without the approval of the Committee.
- (2) Neither the allocation to a member nor the use by a member of a site creates any residential tenancy.
- (3) No member has a right to exclusive use of—
- (a) common land of the Club; or
  - (b) except in accordance with section 29, a site allocated to another member; or
  - (c) a vacant site.
- (4) Subject to affording natural justice to a member – the Committee has power to require a member to vacate a site or other Club land on reasonable notice if the member’s use of a site or other Club land is inconsistent with—
- (a) this Constitution; or
  - (b) the by-laws of the Club; or
  - (c) the agreement for allocation of a site to that or another member.
- (5) If a member defaults in her or his obligations in respect of a site or other Club land under Territory law, this Constitution, the by-laws or an agreement for allocation of a site, whether the site has been allocated to the member or another member, the Committee may arrange for—
- (a) the prompt removal of all of that person’s property from the Club land on which the default has occurred at that person’s expense; or
  - (b) if the member and Committee agree, the on-sale of that person’s property on that land to the Club or to a member of the Club, subject to prompt removal of the property at the person’s expense if the property is not on-sold in a timeframe agreed with the Committee.
- (6) Any expense incurred by the Committee in giving effect to sub-section (5) is a debt due and payable to the Club.

### 3.9 Administrative matters

#### 85. Financial year

The financial year of the Club is the period beginning on 1 July in each year and ending on 30 June in the following year.

#### 86. Service of notices

- (1) The Committee or a member of the Committee may serve a notice by or on behalf of the Club—
  - (a) by handing the notice to the addressee; or
  - by transmitting the notice to the addressee by—
    - (b) post; or
    - (c) electronic means including fax or e-mail,at the addressee's last known physical, postal or electronic address shown in the Club's membership records.
- (2) If the means set out in sub-section (1) are impractical or inappropriate, the Committee or a member of the Committee may serve a notice by or on behalf of the Club as provided in—
  - (a) the *Legislation Act 2001* (ACT); or
  - (b) the *Service and Execution of Process Act 1992* (Cth).

#### 87. Alteration of Club Constitution

- (1) The members of the Club may, by special resolution, alter or amend the Objects or Rules of this Constitution.
- (2) The Secretary must provide notice of the proposed amendments in accordance with section 59.

#### 88. Commencement of any further alterations to Club Constitution

An alteration or amendment to the Objects or Rules of this Constitution, if lawfully made, takes effect when lodged with the registrar-general.

#### 89. Winding up of Club

- (1) In the event that the Club is wound up in accordance with the Act, the liquidator of the Club's affairs must apply the cash proceeds of all of the Club's assets after payment of the Club's debts to the ACT Eden Monaro Cancer Support Group, ASIC registered number A 01870, for its general purposes.
- (2) The receipt of the Treasurer or Secretary of the ACT Eden Monaro Cancer Support Group will be sufficient discharge to the liquidator of the Club's affairs.

- (3) In the event that the ACT Eden Monaro Cancer Support Group is no longer in existence at a time when the Club is wound up, the liquidator of the Club's affairs must apply the Club's net cash proceeds to another non-profit charitable organization having objectives substantially similar to those of the ACT Eden Monaro Cancer Support Group.
- (4) The liquidator of the Club's affairs must arrange for the non-cash assets of the Club to be sold, auctioned or otherwise disposed of and the proceeds applied as provided in sub-sections (1) to (3).

## CONSTITUTION DICTIONARY

(see section 10)

Note: The *Legislation Act 2001* contains definitions and other provisions relevant to interpreting the Club's Constitution.

**ACT** means the Australian Capital Territory

**Act, the** means the *Associations Incorporation Act 1991* – the names of all other legislative enactments are stated in full in this Constitution

**ANF** means the Australian Naturist Federation (Incorporated)

**address** includes a physical or electronic address including an e-mail or facsimile address

**approved form** means a form approved by the registrar-general

**alternative dispute resolution procedures (ADR)** encompass procedures whose aim is to encourage parties in conflict to arrive at solutions acceptable to each party with the assistance of a neutral person. ADR include processes such as assisted negotiation, mediation and conciliation. See Conflict Resolution Service, <http://www.crs.org.au>

**by-law** means a written instrument made by the Committee setting out requirements for acts and things done in the Club so as to conform with the Club's Objects and Rules

**child** includes any person under the age of 18 years

**Club** means the ACT Nudist Club Incorporated, registration No. A 00465 under the Act

**Club property** includes Club records and other documents, whether in physical or electronic form, and includes tangible and intangible property

**Constitution** – see section 1

**date of resignation** – see *Legislation Act 2001*, section 250 – in brief, a document such as a letter of resignation served by post is taken to be received on the date it would have been received in the ordinary course of post; whereas a document served by fax or e-mail is taken to be served when sent unless there is evidence raising a doubt, for example, evidence of equipment malfunction

**document** includes a printout of information held on a computer database and includes a photograph, film, video or digital image or money transaction

**disciplinary resolution** – see sub-section 34(1)

**financial member** means a member whose membership subscription has been paid in full at the time that the member seeks to do an act or thing or to exercise a right or privilege, and is taken to include members in the categories 'honorary life membership' and 'purchased life membership'

**fire plan** means the Club's emergency plan for dealing with fire or the threat of fire

**former constitution** means the revised constitution lodged with the registrar-general's office on 7 October 1992 and each alteration to that document lodged with that office prior to the lodgement of this Constitution

**general meeting** – see section 58

**general member** means a member of the Club who belongs to the general membership category

**guideline** means a written instrument issued by the Committee giving guidance to good practice in doing specific acts and things so as to respect the Club's Objects, Rules and by-laws and to further harmonious interaction between members

**lodgement date** – see paragraph 15(5)(a)

**member** means a person falling within any of the categories of membership of the Club described in sub-section 13(1), except when this Constitution specifies otherwise – see, for example, paragraph 14(a) and sub-section 34(1)

**National Privacy Principles** – see *Privacy Act 1988* (Cth)

**natural justice** has two elements—

- first, the 'hearing rule', which requires a decision-maker to hear a person before making a decision affecting the person's interests; and
- secondly, the 'rule against bias' (whether actual or apprehended bias), which requires that a particular decision-maker not make a decision where the circumstances would lead to reasonable doubt about the decision-maker's impartiality

**nominating members** – see paragraph 14(a)

**nudist** includes the term 'naturalist' and 'nudism' has a corresponding meaning

**personal information** means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion – see *Privacy Act 1988* (Cth), section 6

**person's property** in this document means property belonging to that person and includes any and all structures and movables located within the Club grounds, whether on a site that had been allocated to that person or elsewhere on the Club grounds

**personal account records** means records relating to the member's subscriptions and other payments, debts and transactions with the Club

**President** means the Vice-President when the Vice-President is acting in the position of President

**privilege** means a benefit of membership that is not guaranteed by law or by this Constitution. For example, the opportunity to apply for a powered site is a privilege rather than a right because there may be insufficient powered sites at any one time to satisfy each application. However, once a member is allocated a site, the member has the right to enjoy it in accordance with the Constitution, by-laws and an agreement for use of the site.

**Public Officer** – see section 57 and, generally, Parts 4 and 11 of the Act – briefly, an officer having primary or residual responsibility for the receipt and lodgement, for regulatory purposes, of documents concerning the Club – the Public Officer must be a resident of the

ACT and over 18 years of age and not otherwise disqualified from holding office – see section 63 of the Act

***publish*** includes publication by electronic means including by e-mail and on the internet, including the Club’s website

***publishing*** – see ‘publish’

***records*** includes accounts, books and documents and includes records kept on a database or database media, whether or not the records, database or database media are kept on property or equipment belonging to the Club – also see the definition of ‘document’ above

***registrar-general*** – see *Registrar-General Act 1993*, sections 4 and 5

***Regulation, the*** means the *Associations Incorporation Regulation 1991*

***residential tenancy*** means a right to occupy or use land as a place of residence – see *Residential Tenancies Act 1997* (ACT), Part 1A

***Returning Officer*** – see section 66

***right*** means a benefit of membership that is guaranteed by law or by this Constitution, for example, the right of a financial member to vote at a general meeting or to stand for a position on the Committee or to freely enter the Club grounds. A right may only be limited by law or as provided in this Constitution, including any relevant by-law made in accordance with the Constitution or an agreement for use of a site made in accordance with by-laws. An example of a limitation directly imposed by this Constitution is a limitation on a member’s access to the Club’s property as part of the disciplinary process – see section 38.

***site*** – see section 84

***site fee*** – see section 84

***special resolution*** – see sections 30, 33 and 70 of the Act, and sub-section 59(3) and sections 83 and 87 of this Constitution – briefly, to pass a special resolution requires a minimum 21 days’ notice of the resolution to members and a vote in favour of the resolution of  $\frac{3}{4}$  of the votes of those members of the Club who, being entitled to vote, vote in person or by proxy at the meeting

***Territory*** means the Australian Capital Territory

***transmit*** includes transmission by post, fax and e-mail

***unfinancial member*** means a member whose membership subscription is due and has not been paid in full at the time that the member seeks to do an act or thing or to exercise a right (including the rights to stand for election or to be appointed to the Committee) or privilege

***valid nomination*** – a nomination that complies with the requirements of sub-section 42(1)

***valid proxy*** – a proxy that complies with the requirements of sub-sections 63(2), (3) and (6) and has not expired pursuant to sub-section 63(13)

## ENDNOTE

Table of cross-references from sections of *Constitution 2011* to relevant provisions of legislation and former constitution of the ACTNC

Section of <i>Constitution 2011</i>	Section of legislation References to ‘Act’ are to the <i>Associations Incorporation Act 1991</i> unless stated otherwise References to ‘Reg’ are to the <i>Associations Incorporation Regulation 1991</i> References to ‘MR’ are to the Model Rules under the <i>Associations Incorporation Regulation 1991</i>	Section of former constitution
1	—	—
2	—	1
3	—	—
4	Act ss 30 and 33.	34(c)
5	—	—
6	—	2
7	—	3
8	—	—
9	—	—
10	—	4(a), (b)
11	MR s 1A.	4(c)
12	Act s 34; <i>Human Rights Act 2004</i> , s 30, by the application of the <i>Legislation Act 2001</i> to the Club Constitution; Act s 50; Act Parts 4, 5, 8, 9; Act s 48.	—
13	—	5(a), (b), (h), (m)
14	Act s 32(a), Sch 1, col 1, item 1; MR s 2.	5(a)



<b>15</b>	MR ss 2, 3.	5(a), (c), (d), (e)(ii)
<b>16</b>	—	5(e)(i)
<b>17</b>	—	5(f)
<b>18</b>	—	5(g)
<b>19</b>	—	5(h)
<b>20</b>	—	5(h)
<b>21</b>	—	5(h)(i)
<b>22</b>	—	—
<b>23</b>	—	5(b)
<b>24</b>	—	30(b)
<b>25</b>	Act s 32(a), Sch 1, col 1, item 2; MR s 7.	5(h), 30
<b>26</b>	—	5(l), 5(k)
<b>27</b>	MR s 6.	5(i)
<b>28</b>	MR s 5.	5(i), (j), (l)
<b>29</b>	MR s 4.	5(k), 18 (a)
<b>30</b>	—	—
<b>31</b>	Act s 32(a), Sch 1, col 1, item 3; MR s 8.	5(n), 30
<b>32</b>	—	6(e)
<b>33</b>	—	—
<b>34</b>	MR s 9; Act s 32(a), Sch 1, col 1, item 4(a), (c); s 50.	Originally 33(a)-(f), then by 1994 amendment, 33(a)-(b).

<b>35</b>	Act s 32(a), Sch 1, col 1, item 4(b), (c); s 50.	Originally cl 33(g)-(n), then by 1994 amendment, 33(c)-(i).
<b>36</b>	Act s 32(a), Sch 1, col 1, item 4(a), (c); s 50.	Originally cl 33(k); in 1994, a new cl 33(g) replaced it.
<b>37</b>	Act s 32(a), Sch 1, col 1, item 4(a); s 50.	Originally cl 33(o), then by 1994 amendment, 33(j).
<b>38</b>	—	33(n)
<b>39</b>	Act s 32(a), Sch 1, col 1, item 5(1); ss 50, 60; MR s 11.	21
<b>40</b>	Act s 32(a), Sch 1, col 1, items 5(2)(a), (b), (d); MR ss 12, 13(7)	22, 23
<b>41</b>	Act s 32(a), Sch 1, col 1, items 5(1), (2)(f).	22(a), 29(f), (g)
<b>42</b>	Act s 32(a), Sch 1, col 1, item 5(2)(a); MR s 13.	22(b), (f), 23(d), 24
<b>43</b>	Act s 32(a), Sch 1, col 1, items (9), (10); Act s 55(1); MR s 14.	—
<b>44</b>	Act s 32(a), Sch 1, col 1, item 5(2)(f); MR s 14(3).	—
<b>45</b>	Act s 32(a), Sch 1, col 1, item (10); MR s 15.	7(a), (b), (c), 8, 10(d)
<b>46</b>	Act s 32(a), Sch 1, col 1, item 8(2).	10(c)-(f)
<b>47</b>	Act s 32(a), Sch 1, col 1, item (10).	5(d)-(j)
<b>48</b>	Act s 32(a), Sch 1, col 1, item 5(2)(c); MR s 16.	25
<b>49</b>	Act s 32(a), Sch 1, col 1, item 5(2)(c); MR s 17.	26
<b>50</b>	Act s 32(a), Sch 1, col 1, items 5(2)(e), (f); MR s 18.	27
<b>51</b>	MR s 18(2), Act s 32(a); Sch 1, col 1, item 5(2)(f).	27(b), (c)

<b>52</b>	MR s 19.	29
<b>53</b>	Act s 65.	28
<b>54</b>	—	36
<b>55</b>	—	37
<b>56</b>	—	37(a)(ii)
<b>57</b>	Act s 32(a), Sch 1, col 1, items 6(a), (c); Act s 73; MR ss 22, 24(3).	11
<b>58</b>	Act s 32(a), Sch 1, col 1, items 6(a), (b), (c); MR s 23.	12
<b>59</b>	Act s 32(a), Sch 1, col 1, items 6(b), (f); MR s 24.	13
<b>60</b>	Act s 32(a), Sch 1, col 1, item 6(d); MR s 25.	14
<b>61</b>	Act s 32(a), Sch 1, col 1, item 6(c); MR s 26.	15
<b>62</b>	Act s 32(a), Sch 1, col 1, item 6(b); MR s 27.	16
<b>63</b>	Act s 32(a), Sch 1, col 1, item 6(e); MR ss 29, 30.	18
<b>64</b>	Act s 32(a), Sch 1, col 1, item 6(c); MR s 28.	17
<b>65</b>	Act s 32(a), Sch 1, col 1, item 6(c); MR s 28.	19, 20
<b>66</b>	Act s 32(a), Sch 1, col 1, item 6(c).	24(e)
<b>67</b>	Act s 74.	9
<b>68</b>	Act s 75.	10
<b>69</b>	Act s 64.	23(b)
<b>70</b>	Act ss 55(1), 57; Reg ss 6, 8, 9; MR s 1.	23(b), 35(b)-(c)
<b>71</b>	Act s 32(a), Sch 1, col 1, item (10).	7(c)
<b>72</b>	Act s 32(a), Sch 1, col 1, item (9); MR s 34.	35

<b>73</b>	—	—
<b>74</b>	MR s 36; Act ss 32(a), 67(2)(a), 76(6), Sch 1, col 1, item 11.	7(a)
<b>75</b>	—	—
<b>76</b>	Act s 32(a), Sch 1, col 1, item (10).	—
<b>77</b>	—	—
<b>78</b>	—	—
<b>79</b>	—	—
<b>80</b>	—	—
<b>81</b>	—	—
<b>82</b>	Act s 32(a), Sch 1, col 1, item 8(1), (2).	6(a)-(d)
<b>83</b>	—	2(c), 38
<b>84</b>	—	—
<b>85</b>	Act s 32(a), col 1, Sch 1, item 7.	31
<b>86</b>	<i>Legislation Act 2001 (ACT), Part 19.5; Service and Execution of Process Act 1992 (Cth).</i>	32
<b>87</b>	Act ss 30 and 33.	34(a)-(b)
<b>88</b>	Act ss 30(3), 33(5).	34(c)
<b>89</b>	Act Part 7.	39