

Alliance for Forgotten Australians Limited

ABN 31 955 480 765

CONSTITUTION

PART 1 – CONTENTS

1. Contents

The contents of this constitution are:

PART 1 – CONTENTS

1. Contents

PART 2 – THE COMPANY

2. Name
3. Object
4. Legal Capacity, Powers and Location
5. Not For Profit Organisation

PART 3 – MEMBERSHIP

6. Categories
7. Governing Members
8. Affiliate Members
9. Associate Members
10. Applications
11. Subscriptions
12. Resignation
13. Removal
14. Cessation
15. Rights and Obligations
16. Liability
17. Register of Members
18. Grievance Procedure
19. Conferences, Forums and Groups

PART 4 – GENERAL MEETINGS

20. Interpretation
21. Annual General Meeting
22. Special General Meetings
23. Notice
24. Proxies
25. Use of Technology
26. Quorum
27. Voting
28. Procedure Otherwise

PART 5 – DIRECTORS AND COMPANY SECRETARY

29. Positions
30. Appointment
31. Term of Office
32. Notification to ACNC
33. Duties
34. Access to Records
35. Company Secretary
36. Indemnity

PART 6 – OFFICE-BEARERS

37. Positions
38. Election
39. Term of Office

PART 7 – THE BOARD

40. Membership
41. Responsibility and Powers
42. Regulations
43. Public Statements

PART 8 – BOARD MEETINGS

44. Convening
45. Notice
46. Use of Technology
47. Quorum
48. Chairing
49. Voting
50. Conflict of Interest
51. Leave of Absence
52. Resolutions without Meeting

PART 9 – FINANCIAL AND LEGAL

53. Financial Year
54. Financial and Other Records
55. Auditor
56. Financial Reporting and Audit or Review
57. Payments
58. Execution of Documents
59. Common Seal
60. Minutes
61. Amendment
62. Winding Up
63. Notices

PART 9 – FINANCIAL AND LEGAL *contd*

- 64. Replaceable Rules
- 65. Interpretation
- 66. Transitional

PART 10 – INDEX

- 67. Index

PART 2 – THE COMPANY**2. Name**

The name of the company is “Alliance for Forgotten Australians Limited”.

3. Object

- 3.1 In this constitution, “Forgotten Australian” means an individual who spent a period of time as a child in a children’s home, orphanage, asylum, foster placement, training school or any other form of residential out-of-home facility in Australia before the end of 1989.

- 3.2 The object of the company is to support Forgotten Australians* to amplify their collective voice and ensure active participation nationally, drawing on lived experience, by:

- (a) *advocating* for appropriate past, present and future policies, programs and services that impact on the lives of Forgotten Australians and children in the system since 1989;
- (b) *educating* elected representatives, policy makers, professionals, academics, and the general community, on the lived experience, past and present, of Forgotten Australians; and
- (c) *promoting* recognition and inclusion of the past experiences, injustices and impact of the legislation, policies and practices on the lives of Forgotten Australians as children and adults.

4. Legal Capacity, Powers and Location

- 4.1 The company has:

- (a) the legal capacity and powers of an individual, and
- (b) all the powers of an incorporated body.

See section 124 of the Corporations Act.

- 4.2 The company may only:

- (a) exercise its powers; and
- (b) use its income and assets (including any surplus);

for:

- (c) its object, and
- (d) purposes incidental or ancillary to its object.

- 4.3 The company:

- (a) has a physical presence in Australia; and
- (b) to that extent, incurs its expenditure and pursues its objects principally in Australia.

See section 50-50 of the *Income Tax Assessment Act 1997* (Cth).

5. Not For Profit Organisation

- 5.1 The company must not make any distribution (including of any income or assets) directly or indirectly to its members.

- 5.2 Clause 5.1 does not prevent the company from paying its members:

- (a) reimbursement for expenses properly incurred by them in carrying out their duties on behalf of the company, and
- (b) for goods supplied and services provided by them,

if this is done in good faith on terms no more favourable than if the member were not a member.

PART 3 – MEMBERSHIP**6. Categories**

The company has 3 categories of membership:

- (a) governing members – see clause 7;
- (b) affiliate members – see clause 8; and
- (c) associate members – see clause 9.

7. Governing Members

- 7.1 The governing members of the company are its directors – see Part 5.

- 7.2 When a person becomes a governing member:
- the name and address of the new governing member, and
 - the date of becoming a governing member,
- must be entered in the register of members.
- 8. Affiliate Members**
- The affiliate members of the company are those bodies that:
- receive government funding to deliver the Find & Connect Services to Forgotten Australians* in each State/Territory;
 - meet any other criteria prescribed by the Board by regulation*;
 - support the object of the company;
 - apply to become affiliate members of the company; and
 - are approved by the Board.
- 9. Associate Members**
- The associate members of the company are any Forgotten Australian* or other individual or body that:
- supports the object of the company;
 - applies to become an associate member of the company; and
 - is approved by the Board.
- 10. Applications**
- 10.1 Applications for affiliate and associate
- must be in the form prescribed by the Board by regulation*; and
 - may be approved, rejected or deferred by the Board.
- 10.2 No reason need be given for the rejection of an application.
- 11. Subscriptions**
- There are no subscriptions or other amounts to be paid by members in that capacity.
- 12. Resignation**
- 12.1 Affiliate and associate members may resign by writing* to the company.
- 12.2 The Board may by notice in writing* request affiliate and associate members to confirm that they wish to remain a member. If an affiliate or associate member does not reply affirmatively in writing* to the company within the time set by the Board, the member is taken to have resigned.
- 13. Removal**
- 13.1 The Board may any time remove an affiliate or associate member as a member.
- 13.2 Procedural fairness does not apply to the removal and no reason need be given.
- 14. Cessation**
- 14.1 Affiliate and associate members cease to be members on resignation, removal, death or dissolution.
- 14.2 Governing members cease to be governing members on ceasing to be a director.
- 14.3 If a governing member ceases to be a governing member, the date of ceasing to be a governing member must be entered in the register of members.
- 15. Rights and Obligations**
- 15.1 The governing members are the only members of the company for the purposes of the Corporations Act and Part 4 of this constitution.
- 15.2 Affiliate members and associate members are not members of the company for the purposes of the Corporations Act and Part 4 of this constitution.
- 15.3 The rights of members are not transferable, and end when the member ceases to be a member in accordance with clause 13.
- 15.4 Members must at all times comply with the constitution and regulations*.
- 15.5 This constitution is an enforceable contract between the company and each governing member.
- See section 140 of the Corporations Act.
- 16. Liability**
- 16.1 The liability of governing members is limited to the amount specified in clause 16.2.
- 16.2 If the company is wound up, each governing member undertakes to contribute up to \$10 to the company's property.

- 16.3 In clause 16.2, “governing member” includes a former governing member who was a governing member at any time during the year ending on the day of the commencement of the winding up, subject to clause 16.4.
- 16.4 Former governing members need not contribute in respect of a debt or liability of the company contracted after they ceased to be a member.
- 16.5 Affiliate members and associate members have no liability in respect of their membership of the company.

17. Register of Members

The Board must ensure that a register of members is kept in which are entered:

- (a) the name of each governing member,
- (b) the address for notices last given by the governing member,
- (c) the date of becoming a governing member, and
- (d) in the case of former governing members – the date of ceasing to be a member.

See section 169 of the Corporations Act.

18. Grievance Procedure

- 18.1 The grievance procedure in this clause applies to disputes under this constitution between a governing member and the company (including the Board).
- 18.2 The parties must first attempt to resolve the dispute themselves.
- 18.3 If the parties are unable to resolve the dispute, the Board must appoint a conciliator and arbitrator (in this clause, “conciliator”).
- 18.4 The conciliator:
- (a) must not have a personal interest in the dispute;
 - (b) must not be biased in favour of or against any party;
 - (c) may be a member or former member; and
 - (d) if possible, must be appointed with the agreement of all parties.
- 18.5 The conciliator must conduct a conciliation at which each party is given a reasonable opportunity to be heard.

- 18.6 The parties must in good faith attempt to resolve the dispute by conciliation.
- 18.7 The conciliator may during, and must at the end of, the conciliation attempt to resolve the dispute by agreement between the parties.
- 18.8 If the conciliator is unable to resolve the dispute by agreement between the parties, the conciliator must determine the respective rights and obligations under this constitution of the parties and any other members.
- 18.9 A determination of a conciliator under clause 18.8 is binding on the parties and all members.
- 18.10 A party may appoint another person to act on its behalf in the grievance procedure.
- 18.11 The State, Territory and Commonwealth Acts applying to commercial arbitrations do not apply to the grievance procedure in this clause.

19. Conferences, Forums and Groups

Without limiting clause 41.3, in order to better inform the work of the company the Board may constitute and convene* conferences, forums and other groups in which affiliate and associate members are invited to participate.

PART 4 – GENERAL MEETINGS

20. Interpretation

In this Part, “member” means a governing member.

21. Annual General Meeting

- 21.1 The Board must convene* an annual general meeting to be held:
- (a) at least once in each calendar year, and
 - (b) within 5 months after the end of the company’s financial year.
- Compare section 250N of the Corporations Act.
- 21.2 The Board must send members copies of the financial report and auditor’s report for the last financial year referred to in clause 56 with the notice of the annual general meeting.
- Compare section 316A of the Corporations Act.

21.3 The Board must lay before the annual general meeting the financial report and auditor's report.

As under section 317 of the Corporations Act.

21.4 The ordinary business of the annual general meeting is:

(a) to verify the minutes of:

- (i) the last annual general meeting, and
- (ii) any special general meetings since the last annual general meeting; and

(b) to consider the financial report and auditor's report (including questions and comments from members on the management of the company).

As under section 250S of the Corporations Act.

21.5 The annual general meeting may only consider other business of which notice has been given in accordance with clause 23.3(b).

22. Special General Meetings

22.1 The Board may convene* a special general meeting.

22.2 The Board must convene* a special general meeting if requested by members on the same basis as under the Corporations Act.

See section 249D of the Corporations Act.

22.3 Members may themselves convene* a special general meeting on the same basis as under the Corporations Act.

See section 249F of the Corporations Act.

22.4 Special general meetings may only consider business of which notice has been given in accordance with clause 23.3(b).

23. Notice

23.1 At least 21 days notice in writing* of general meetings must be given to:

- (a) each member and director, and
- (b) the company's auditor,

subject to clause 23.2.

As under sections 249H(1), 249J(1) and 249K of the Corporations Act.

23.2 Less than 21 days notice may be given of a general meeting if:

- (a) all members agree beforehand; and
- (b) no resolution will be moved to remove a director or the auditor.

As under section 249H(2) of the Corporations Act.

23.3 The notice must state:

- (a) the date, time and place of the meeting,
- (b) if technology is to be used – sufficient information to allow members to participate in the meeting by means of the technology,
- (c) the general nature of each item of business to be considered, and
- (d) if a special resolution* is to be proposed:
 - (i) the proposed resolution, and
 - (ii) that it is intended that the resolution be proposed as a special resolution*.

As under section 249L(1) of the Corporations Act.

23.4 The notice must include under clause (b) any business that any member has requested in writing* be considered at least 21 days before the notice is sent.

23.5 The notice must also include:

- (a) a statement that:
 - (i) all members may appoint a proxy to attend, speak and vote instead of the member in accordance with clause 24, and

- (ii) proxies must be members, and

Compare section 249L(1) of the Corporations Act.

- (b) a copy of clause 24.

23.6 The notice may (but need not) include a form of appointment for the purposes of clauses 23.5 and 24.

23.7 If a general meeting is adjourned for 1 month or more, new notice of the resumed meeting must be given.

- 23.8 Despite clause 23.1, the accidental omission to give notice of the meeting to a person entitled to notice, or the non-receipt of notice of the meeting by a person entitled to notice does not invalidate the meeting.

Compare section 1322(3) of the Corporations Act.

24. Proxies

- 24.1 Members entitled to vote at the general meeting may appoint any other member as a proxy.

Compare section 249X(1) of the Corporations Act.

- 24.2 Appointments of proxies must be:

- (a) in writing*, naming the member (or members, in order) appointed;
- (b) signed* by the member making the appointment; and
- (c) sent to the company or given to the chair of the meeting before the commencement of the meeting.

- 24.3 Appointments of proxies are valid if they contain the information required by clause 24.2.

Compare section 250A(1) of the Corporations Act.

- 24.4 Proxies may exercise all the rights of members at general meetings.

25. Use of Technology

- 25.1 General meetings may be held using technology, provided the technology enables each member attending the meeting to communicate orally clearly and simultaneously with every other such member.

Compare sections 249R & 249S of the Corporations Act.

- 25.2 A member attending a general meeting using technology is taken to be present at the meeting.

Compare section 249RA(3) of the Corporations Act.

26. Quorum

The quorum for general meetings is the presence in person or by proxy of a majority of the members at the time.

27. Voting

Members may vote at general meetings in person or by proxy.

28. Procedure Otherwise

- 28.1 Except as provided in this Part, the procedure for the conduct of general meetings is the same as for meetings of the Board under Part 8.

- 28.2 A resolution required by the Corporations Act to be passed at a general meeting (including a special resolution) cannot be passed by a resolution without meeting under clause 52.

PART 5 – DIRECTORS AND COMPANY SECRETARY

29. Positions

- 29.1 The company has between 7 and 9 directors:

- (a) 1 director from each of:
 - (i) New South Wales and Australian Capital Territory,
 - (ii) Northern Territory,
 - (iii) Queensland,
 - (iv) South Australia,
 - (v) Tasmania,
 - (vi) Victoria, and
 - (vii) Western Australia; and
- (b) up to 2 additional directors (who both cannot be from the same state or territory);

all appointed under clause 30 with staggered 3 year terms.

- 29.2 Before being appointed, each director must give the company:

- (a) a signed* consent to act as a director of the company, and
See section 201D of the Corporations Act.
- (b) an undertaking in writing* to contribute up to \$10 to the company's property as a member of the company, if the company is wound up.

- 29.3 The company does not have:

- (a) alternate directors, or
- (b) a managing director.

30. Appointment

- 30.1 The Board must at its last meeting before each annual general meeting appoint directors to no fewer than 2 and no more than 3 of the positions listed in clause 29.1 for a 3 year term.
- 30.2 Only individuals who:
- (a) actively support the company and its object;
 - (b) understand and accept their governance responsibilities;
 - (c) have demonstrated skills:
 - (i) relevant to the implementation of the object of the company, or
 - (ii) in governance (including financial, legal, communications and management skills); and
 - (d) are willing and able to participate in meetings using technology and to correspond by email;
- are eligible to be appointed as directors.
- 30.3 In addition, for the 7 positions listed in clause 29.1(a) only individuals who are Forgotten Australians* are eligible to be appointed.
- 30.4 Before appointing directors the Board must call for expressions of interest from associate members and as widely as possible from other Forgotten Australians*.
- 30.5 Without limiting clause 41.3, the Board must establish a Nominations Committee to advise it on the appointment of directors so as to ensure that the composition of the Board as a whole includes a mix of skills and experience appropriate for the company and its activities

31. Term of Office

- 31.1 Directors hold office:
- (a) from the end of the first annual general meeting after they are appointed,
 - (b) until the end of the fourth annual general meeting after they are appointed,
- subject to clauses 31.2–31.6.

- 31.2 Directors may be re-appointed, subject to clause 31.3.
- 31.3 Directors may not hold office for more than 3 full terms (not including filling a casual vacancy).
- 31.4 Directors may resign by writing* to the company.
- 31.5 Directors cease to hold office if they:
- (a) fail to attend 3 consecutive Board meetings without leave of absence under clause 51;
 - (b) accept any payment from the company otherwise than in accordance with this constitution and the Corporations Act; or
See Chapter 2E of the Corporations Act.
 - (c) become disqualified under the Corporations Act.
See Part 2D.6 of the Corporations Act.
- 31.6 Directors may be removed by a general meeting in accordance with the Corporations Act. The resulting vacancy may be filled at the general meeting.
See section 203D of the Corporations Act.
- 31.7 Without limiting clause 31.6, the circumstances in which a director may be removed by a general meeting include where that person no longer has sufficient capacity to act as a director.
- 31.8 If there is a vacancy in directors (including a vacancy under clause 31.6 not filled at the general meeting), the Board may appoint an individual who is eligible under clauses 30.2 and 30.3 to fill the vacancy for the remainder of the term of office, subject to clause 31.3.
- 31.9 The Board may continue to act despite any vacancy in directors.
- 31.10 Even if it is subsequently found that a person who has acted as a director was not properly appointed, the validity of:
- (a) the acts of that person as a director, and
 - (b) decisions of Board meetings in which that person has participated;
- is not affected.
See section 201M of the Corporations Act.

*see definition in clause 65.1

32. Notification to ACNC

If a person becomes or ceases to be a director, the company must notify the ACNC* in the approved form:

- (a) if the revenue of the company for the financial year is \$250,000 or more – within 28 days; or
- (b) if the revenue of the company for the financial year is less than \$250,000 – within 60 days.

See section 65-5 of the ACNC Act.

33. Duties

33.1 Each director is subject to, and must comply with, the following duties under the ACNC Regulation:

- (a) to exercise the director's powers and discharge the director's duties with the degree of care and diligence that a reasonable individual would exercise if they were a director of the company;
- (b) to act in good faith in the company's best interests, and to further the object of the company;
- (c) not to misuse the director's position;
- (d) not to misuse information obtained in the performance of their duties as a director of the company;
- (e) to disclose perceived or actual material conflicts of interest of the director – see clause 50.1;
- (f) to ensure that the company's financial affairs are managed in a responsible manner; and
- (g) not to allow the company to operate while insolvent.

See section 45.25 of the ACNC Regulation.

33.2 This constitution is an enforceable contract between the company and each director.

See section 140 of the Corporations Act.

34. Access to Records

34.1 Directors may inspect the financial records of the company at any reasonable time.

See section 290(1) of the Corporations Act.

34.2 Directors may make copies of the financial records inspected, unless the court orders otherwise.

See section 290(3) of the Corporations Act.

34.3 Directors may inspect and make copies of the other records of the company at any reasonable time:

- (a) for the purposes of a legal proceeding to which they are or will be a party; or

See section 198F of the Corporations Act.

- (b) for the purposes of carrying out their duties as a director.

35. Company Secretary

The Secretary is the secretary of the company for the purposes of the Corporations Act.

See Part 2D.4 of the Corporations Act.

36. Indemnity

The company indemnifies its directors and company secretary against any liability incurred in that capacity (other than to the company or a related body corporate), unless the liability did not arise out of conduct in good faith.

See section 199A(2) of the Corporations Act.

PART 6 – OFFICE-BEARERS**37. Positions**

The company has the following office-bearers:

- (a) Chair,
- (b) Deputy Chair,
- (c) Treasurer, and
- (d) Secretary.

38. Election

38.1 At its first meeting after the annual general meeting each year the Board must elect the office-bearers from among the directors.

38.2 A director who has already been elected to a particular office-bearer position 5 times (including filling a vacancy) is not eligible to be elected again to that position.

39. Term of Office

- 39.1 Office-bearers hold office from the time of their election until their successor is elected, subject to clauses 39.2–39.4.
- 39.2 Office-bearers may resign by writing* to the company.
- 39.3 Office-bearers who cease to be directors, other than by the expiry of their term of office, cease to be office-bearers.
- 39.4 Office-bearers may be removed by resolution passed by an absolute majority* of the Board.
- 39.5 The Board must as soon as practicable fill vacancies in office-bearer positions for the remainder of the term.

PART 7 – THE BOARD**40. Membership**

The members of the Board are the directors of the company.

41. Responsibility and Powers

- 41.1 The Board is responsible for the management of the company.
- 41.2 The Board may exercise all powers of the company on its behalf.
- 41.3 The Board may:
 - (a) establish committees with such membership and terms of reference as it considers appropriate; and
 - (b) delegate its powers as it considers appropriate.

42. Regulations

- 42.1 The Board may by resolution passed by an absolute majority* make regulations to give effect to this constitution.
- 42.2 Members and directors must at all times comply with the regulations as if they formed part of this constitution.

43. Public Statements

- 43.1 The Board may by regulation* or resolution authorise an office-bearer, director or other person to make public statements on behalf of the company.

- 43.2 No person may make any public statement on behalf of the company unless authorised by the Board.

PART 8 – BOARD MEETINGS**44. Convening**

- 44.1 The Secretary, Chair or any 3 directors may convene* a Board meeting.
- 44.2 Ordinary Board meetings must be held at least 6 times each year.
- 44.3 At its first meeting after the annual general meeting each year the Board must by resolution set the dates, times and places of ordinary meetings until the next annual general meeting.
- 44.4 The Board may by resolution subsequently change the dates, times and places of ordinary meetings.

45. Notice

- 45.1 Each director must be given at least 7 days notice in writing* of Board meetings, subject to clause 45.4.
- 45.2 Notice may be given of more than 1 Board meeting at the same time.
- 45.3 The notice must state the date, time and place (or places) of the meeting, but need not include the business to be considered.
- 45.4 In cases of urgency a meeting may be held without the notice required by clause 45.1, provided that:
 - (a) as much notice as practicable is given to each director by the quickest practicable means; and
 - (b) resolutions may only be passed by an absolute majority*.

46. Use of Technology

- 46.1 Board meetings may be held using technology, provided the technology enables each director attending the meeting to communicate orally clearly and simultaneously with every other such director.
Compare section 248D of the Corporations Act.
- 46.2 Without limiting clauses 45.4(a) and 46.1, Board meetings may be convened* and held by telephone and videoconference.

46.3 A director attending a Board meeting using technology is taken to be present in person at the meeting.

46.4 By becoming and remaining a director, all directors are taken to consent to this clause.

See section 248D of the Corporations Act.

47. Quorum

The quorum for Board meetings is the presence in person of a majority of the directors at the time.

48. Chairing

48.1 The Chair is entitled to chair Board meetings.

48.2 If the Chair is not present, or does not wish to chair the meeting, the Deputy Chair is entitled to chair.

48.3 If neither the Chair nor the Deputy Chair is present, or if neither wishes to chair the meeting, the Board must elect another director to chair.

48.4 The chair of the meeting does not have a casting vote.

49. Voting

49.1 Each director present at a Board meeting has 1 vote.

49.2 There is no voting by proxy.

49.3 If an equal number of votes are cast for and against a motion or amendment, the chair of the meeting must declare the motion or amendment lost.

50. Conflict of Interest

50.1 Each director who has a perceived or actual material conflict of interest in a matter that relates to the affairs of the company must disclose the conflict:

- (a) to the other directors, or
- (b) to the governing members of the company.

See section 45.25 of the ACNC Regulation.

50.2 Each director who has a material personal interest in a matter that is being considered at a Board meeting:

- (a) must not be present while the matter is being considered; and
- (b) must not vote on the matter;

except as provided by the Corporations Act.

See section 195 of the Corporations Act.

51. Leave of Absence

51.1 The Board may by resolution grant directors leave of absence from Board meetings for up to 3 months.

51.2 The Board may not grant leave of absence retrospectively unless it is satisfied that it was not feasible for the director concerned to seek leave of absence in advance.

52. Resolutions without Meeting

52.1 A resolution agreed to in writing* by all directors has the same effect as a resolution passed at a Board meeting.

52.2 In clause 52.1, “all directors” does not include those directors who:

- (a) would be prohibited by clause 50.2 from voting on the matter at a Board meeting; or
- (b) have leave of absence from Board meetings under clause 51.

PART 9 – FINANCIAL AND LEGAL

53. Financial Year

The financial year of the company is from 1 July to 30 June, unless the Board otherwise determines under the Corporations Act.

See section 323D of the Corporations Act.

54. Financial and Other Records

54.1 The company must keep written financial records that:

- (a) correctly record and explain its transactions and financial position and performance; and
- (b) enable true and fair financial statements to be prepared and to be audited.

See section 55-5(1) of the ACNC Act.

54.2 The company must also keep written records that correctly record its operations.

See section 55-5(2) of the ACNC Act.

54.3 The company must retain the records for at least 7 years.

See section 55-5(4) of the ACNC Act.

54.4 The Board must provide for the safe keeping of the records of the company.

55. Auditor

55.1 The Board must appoint an auditor within 1 month of registration of the company.

See section 327A(1) of the Corporations Act.

55.2 The first annual general meeting must appoint an auditor.

See section 327B(1)(a) of the Corporations Act.

55.3 The Board must within 1 month fill a vacancy in the office of auditor until the next annual general meeting.

See section 327C(1) of the Corporations Act.

55.4 The annual general meeting must fill any vacancy in the office of auditor.

See section 327B(1)(b) of the Corporations Act.

56. Financial Reporting and Audit or Review

56.1 For each financial year, the company must prepare a financial report in accordance with the ACNC Act and the ACNC Regulation.

See section 60-15 of the ACNC Act and Division 60 of the ACNC Regulation.

56.2 If the revenue of the company for the financial year is \$1 million or more, the company must have the financial report audited in accordance with the ACNC Act, and obtain an auditor's report.

See section 60-25 of the ACNC Act.

56.3 If the revenue of the company for the financial year is \$250,000 or more and less than \$1 million:

- (a) the company may have the financial report reviewed in accordance with the Corporations Act, instead of audited; and

See section 60-20 of the ACNC Act.

- (b) references in this constitution to the auditor are taken to be to the reviewer.

See section 60-30(2) of the ACNC Act.

56.4 The financial report and auditor's report must be considered by the annual general meeting in accordance with clause 21.

56.5 If the revenue of the company for the financial year is less than \$250,000:

- (a) the company is not required to prepare a financial report; and
- (b) clause 55, the remainder of this clause and clauses 21.1, 21.3 and 21.4(b) do not apply.

See Subdivision 60-C of the ACNC Act.

57. Payments

57.1 All payments by the company must be specifically authorised in writing* by 2 persons nominated by the Board by regulation* or resolution.

57.2 The Board may nominate a list of individuals or positions for the purposes of clause 57.1.

57.3 This clause does not apply to credit card and petty cash payments where the amount is within limits set by the Board by regulation* or resolution.

58. Execution of Documents

58.1 The company may execute deeds and other documents either:

- (a) by having the document signed by:
 - (i) 2 directors, or
 - (ii) 1 director and the company secretary; or

See section 127(1) of the Corporations Act.

- (b) by using a common seal under clause 59.

For deeds, see section 127(3) of the Corporations Act.

58.2 A document may only be signed under clause 58.1(a) if authorised by resolution of the Board.

59. Common Seal

59.1 The company may have a common seal, in which case the remainder of this clause applies.

See section 123(1) of the Corporations Act.

59.2 The company must set out its name and ABN (or ACN) on the common seal.

See section 123(1)(b) of the Corporations Act.

59.3 A document may only be sealed with the common seal if authorised by resolution of the Board.

- 59.4 The sealing must be witnessed by the signatures of:
- (a) 2 directors, or
 - (b) 1 director and the company secretary.
- See section 127(2) of the Corporations Act.
- 59.5 The Board must provide for the safe keeping of the common seal.

60. Minutes

- 60.1 The Board must ensure that:
- (a) minutes are taken and kept of all general meetings, Board meetings and resolutions without a meeting; and
 - (b) in the case of minutes of meetings – the minutes are signed* within a reasonable time after the meeting by the chair of the meeting or the chair of the next meeting; or
 - (c) in the case of minutes of resolutions without a meeting – the minutes are signed* by a director within a reasonable time after the resolution is passed.

For general meetings, as under, and for Board meetings, see, section 251A(1) of the Corporations Act.

- 60.2 Minutes may be kept in electronic form.
- For general meetings, as under, and for Board meetings, see, 253S of the Corporations Act.

61. Amendment

- 61.1 This constitution may only be amended by special resolution*.
- See section 136(2) of the Corporations Act.
- 61.2 The company must notify the ACNC* of the amendment in the approved form:
- (a) if the revenue of the company for the financial year is \$250,000 or more – within 28 days; or
 - (b) if the revenue of the company for the financial year is less than \$250,000 – within 60 days.

See section 65-5 of the ACNC Act.

62. Winding Up

- 62.1 If the company is wound up, its surplus assets must not be distributed to any member.

- 62.2 The surplus assets must be given to a charity that:
- (a) has a similar object to the company; and
 - (b) also prohibits the distribution of any surplus, income and assets to its members to at least as great an extent as the company.
- 62.3 If the company is wound up voluntarily, the charity to which its surplus assets are to be given must be decided by special resolution*.

63. Notices

- 63.1 Members (including directors) must give the company their address for notices, and any change in that address.
- 63.2 The address for notices may include an email address.
- 63.3 For governing members, the company must enter any change in the address of a member in the register of members.
- 63.4 Notice may be given to a member or director by sending it to the address last given by the member or director.
- 63.5 In this constitution a period of notice of a meeting expressed in days:
- (a) does not include the day on which notice is given; but
 - (b) includes the day on which the meeting is held.

See section 105 of the Corporations Act.

- 63.6 Notices sent by priority post are taken to have been given on the 5th day after posting that is not a Saturday, Sunday or public holiday at that address.
- 63.7 Notices sent by email are taken to have been given on the 1st day after sending that is not a Saturday, Sunday or public holiday at that address.

64. Replaceable Rules

- 64.1 The replaceable rules in the Corporations Act do not apply to the company, except those in sections 204F and 248G(1).
- 64.2 The replaceable rules in sections 249M, 249U(4), 249W(2), 250C(2) and 250J(2) of the Corporations Act are also taken to apply to the company.

Compare item 9 of section 111L(1) of the Corporations Act.

65. Interpretation

65.1 In this constitution, unless the contrary intention appears:

- (a) “absolute majority” means a majority of the votes of all directors entitled to vote at the time, whether or not those directors are present, and whether or not they vote;
- (b) “the ACNC” means the Australian Charities and Not-for-profits Commission;
- (c) “ACNC Act” means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth);
- (d) “ACNC Regulation” means the *Australian Charities and Not-for-profits Commission Regulation 2013* (Cth);
- (e) “the company” means the company named in clause 2;
- (f) “convene” means call and arrange to hold, and includes setting the date, time and place of the meeting;
- (g) “Corporations Act” means the *Corporations Act 2001* (Cth);
- (h) “Forgotten Australian” has the meaning given in clause 3.1;
- (i) “regulations” means regulations of the company made under clause 42, and “regulation” has a corresponding meaning;
- (j) “signed” includes agreed to in writing*;
- (k) “special resolution” means a resolution at a general meeting:
 - (i) of which notice has been given in accordance with clause 23.3(d); and
 - (ii) that is passed by at least 75% of the votes cast (in person or by proxy) by those members entitled to vote on the resolution; and

See sections 9 and 249L(1)(c) of the Corporations Act.

- (l) “writing” includes emails and other written communications in electronic form.

65.2 The headings form part of this constitution.

65.3 The explanatory notes inserted in a smaller font size after provisions of this constitution are for guidance only and do not form part of this constitution.

65.4 This constitution is to be interpreted on the same basis as the Corporations Act and the ACNC Act, except as otherwise provided in this clause.

65.5 The Board is responsible for the interpretation of the constitution and regulations*.

66. Transitional

66.1 This clause:

- (a) is taken to have effect on the date this constitution is adopted; and
- (b) applies despite anything to the contrary in the other clauses of this constitution.

66.2 In this clause, “in 2020”, “in 2021” and “in 2022” means at the last Board meeting before the annual general meetings in those years.

66.3 For the purposes of this constitution, including clauses 29.1 and 30.1:

- (a) [REDACTED] is taken to have been appointed as a director from [REDACTED] in 2020;
- (b) [REDACTED] is taken to have been appointed as a director from [REDACTED] in 2020;
- (c) [REDACTED] is taken to have been appointed as a director from [REDACTED] in 2020;
- (d) [REDACTED] is taken to have been appointed as a director from [REDACTED] in 2021;
- (e) [REDACTED] is taken to have been appointed as a director from [REDACTED] in 2021; and
- (f) [REDACTED] is taken to have been appointed as a director from [REDACTED] in 2022;

66.4 For the purpose of clause 31.3:

- (a) [REDACTED] are taken to have served 2 previous full terms as a director; and
- (b) [REDACTED] are taken to have served 1 previous full term as a director.

66.5 The persons referred to in clause 66.3 become the only directors and the governing members of the company, subject to clause 29.2.

66.6 Those organisations that were general members under the previous constitution become affiliate members under this constitution.

66.7 Those persons that were affiliate members under the previous constitution become associate members under this constitution.

66.8 This clause and the references to it in the table of contents in clause 1 and the index in clause 67 are deleted when the last of the directors named in this clause ceases to be a director.

PART 10 – INDEX

67. Index

“absolute majority”	cl.65.1(a)	p.13
“the ACNC”	cl.65.1(b)	p.13
“ACNC Act”	cl.65.1(c)	p.13
“ACNC Regulation”	cl.65.1(d)	p.13
Affiliate Members	cl.8	p.3
Amendment of Constitution	cl.61	p.12
Annual General Meeting	cl.21	p.4
Applications for Membership	cl.9(a)	p.3
Appointment of Directors	cl.30	p.7
Associate Members	cl.9	p.3
Audit	cl.56	p.11
Auditor	cl.55	p.11
the Board		
Committees	cl.41.3(a)	p.9
Delegation	cl.41.3(b)	p.9
Membership	cl.40	p.9
Public Statements	cl.43	p.9
Regulations	cl.42	p.9
Responsibility and Powers	cl.41	p.9
<i>see also</i> Directors		
Board Meetings		
Chairing	cl.48	p.10
Conflict of Interest	cl.50	p.10
Convening	cl.44	p.9
Leave of Absence	cl.51	p.10
Minutes	cl.60	p.12
Notice	cl.45	p.9
Quorum	cl.47	p.10
Resolutions without Meeting	cl.52	p.10
Technology, Use of	cl.46	p.9
Voting	cl.49	p.10
Categories of Membership	cl.6	p.2
Cessation of Membership	cl.14	p.3
Chair	cl.37(a)	p.8
"	cl.44.1	p.9
"	cl.48.1	p.10
Chairing		
of Board Meetings	cl.48	p.10
of General Meetings	cl.28	p.6
Cheques	<i>see</i> Payments	
Committees of the Board	cl.41.3(a)	p.9
Common Seal	cl.59	p.11
“the company”	cl.65.1(e)	p.13
the Company		
Definition	cl.65.1(c)	p.13
Distribution of Surplus, etc	cl.5.1	p.2
"	cl.62.1	p.12
Legal Capacity	cl.4.1(a)	p.2
Location	cl.4.3	p.2
Name	cl.2	p.2
Not For Profit Organisation	cl.5	p.2
Object	cl.3	p.2
Powers	cl.4	p.2
Company Secretary	cl.35	p.8
"	cl.58.1(a)(ii)	p.11
"	cl.59.4(b)	p.12
<i>see also</i> Secretary		
Conferences	cl.19	p.4
Conflict of Interest	cl.50	p.10

Contents of Constitution	cl.1	p.1
“convene”	cl.65.1(f)	p.13
Convening		
of Annual General Meeting	cl.21	p.4
of Board Meetings	cl.44	p.9
of Special General Meetings	cl.22	p.5
“Corporations Act”	cl.65.1(g)	p.13
Definitions		
“absolute majority”	cl.65.1(a)	p.13
“ACNC”	cl.65.1(b)	p.13
“ACNC Act”	cl.65.1(c)	p.13
“ACNC Regulation”	cl.65.1(d)	p.13
“the company”	cl.65.1(e)	p.13
“convene”	cl.65.1(f)	p.13
“Corporations Act”	cl.65.1(g)	p.13
“Forgotten Australian”	cl.65.1(h)	p.13
“the regulations”, “regulation”	cl.65.1(i)	p.13
“signed”	cl.65.1(j)	p.13
“special resolution”	cl.65.1(k)	p.13
“writing”	cl.65.1(l)	p.13
Delegation by the Board	cl.41.3(b)	p.9
Deputy Chair	cl.37(b)	p.8
“	cl.48.2	p.10
Directors		
Access to Records	cl.34	p.8
Appointment	cl.30	p.7
Duties	cl.33	p.8
Indemnity	cl.36	p.8
Notification to ACNC	cl.32	p.8
Positions	cl.29	p.6
Removal	cl.31.6	p.7
Resignation	cl.31.4	p.7
Term of Office	cl.31	p.7
Transitional	cl.66	p.13
<i>see also</i> the Board, Board Meetings		
Distribution of Surplus, etc	cl.5.1	p.2
“	cl.62.1	p.12
Duties of Directors	cl.33	p.8
Election of Office-Bearers	cl.38	p.8
Execution of Documents	cl.58	p.11
Financial		
Audit	cl.56	p.11
Auditor	cl.55	p.11
Distribution of Surplus, etc	cl.5.1	p.2
“	cl.62.1	p.12
Financial Records	cl.54	p.10
Access to Records	cl.34	p.8
Financial Reporting	cl.56	p.11
Financial Year	cl.53	p.10
Not For Profit Organisation	cl.5	p.2
Payments	cl.57	p.11
to Members	cl.5	p.2
Review of Financial Report	cl.56	p.11
Financial and Other Records	cl.54	p.10
Financial Reporting	cl.56	p.11
Financial Year	cl.53	p.10
“Forgotten Australian”	cl.65.1(h)	p.13
Forums	cl.19	p.4
General Meetings		
Annual General Meeting	cl.21	p.4
Chairing	cl.28	p.6
Interpretation	cl.20	p.4

General Meetings <i>contd</i>		
Minutes	cl.60	p.12
Notice	cl.23	p.5
Procedure Otherwise	cl.28	p.6
Proxies	cl.24	p.6
Quorum	cl.26	p.6
Special General Meetings	cl.22	p.5
Technology, Use of	cl.25	p.6
Voting	cl.27	p.6
Governing Members	cl.7	p.2
Grievance Procedure	cl.18	p.4
Groups	cl.19	p.4
Indemnity	cl.36	p.8
Index	cl.67	p.14
Interpretation	cl.65	p.13
for General Meetings	cl.20	p.4
Leave of Absence from Meetings	cl.51	p.10
Legal		
Amendment of Constitution	cl.61	p.12
Common Seal	cl.59	p.11
Execution of Documents	cl.58	p.11
Interpretation	cl.65	p.13
for General Meetings	cl.20	p.4
Minutes	cl.60	p.12
Notices	cl.63	p.12
Records	cl.54	p.10
Access to Records	cl.34	p.8
Replaceable Rules	cl.64	p.12
Winding Up	cl.62	p.12
<i>see also</i> the Company, “special resolution”		
Legal Capacity of the Company	cl.4.1(a)	p.2
Location of the Company	cl.4.3	p.2
Liability of Members	cl.16	p.3
Meetings	<i>see</i> Board Meetings, General Meetings	
Membership of the Board	cl.40	p.9
Membership of the Company		
Affiliate Members	cl.8	p.3
Applications	cl.10	p.3
Associate Members	cl.9	p.3
Categories	cl.6	p.2
Cessation	cl.14	p.3
Conferences, Forums and Groups	cl.19	p.4
Governing Members	cl.7	p.2
Grievance Procedure	cl.18	p.4
Liability	cl.16	p.3
Payments to Members	cl.5	p.2
Register of Members	cl.17	p.4
Removal	cl.13	p.3
Resignation	cl.12	p.3
Rights and Obligations	cl.15	p.3
Subscriptions	cl.11	p.3
Transitional	cl.66	p.13
Minutes of Meetings	cl.60	p.12
Name of the Company	cl.2	p.2
Not For Profit Organisation	cl.5	p.2
Notice		
of Board Meetings	cl.45	p.9
of General Meetings	cl.23	p.5
Notices	cl.63	p.12
Notice to ACNC of Directors	cl.32	p.8
Object of the Company	cl.3	p.2
Obligations of Members	cl.15	p.3

Office-Bearers	
Election	cl.38 p.8
Positions	cl.37 p.8
Term of Office	cl.39 p.9
<i>see also</i> Chair, Deputy Chair, Treasurer, Secretary & Company Secretary	
Payments.....	cl.57 p.11
to Members	cl.5 p.2
Positions	
of Company Secretary.....	cl.35 p.8
of Directors	cl.29 p.6
of Office-Bearers.....	cl.37 p.8
Powers	
of the Board.....	cl.41.2,41.3 .. p.9
of the Company	cl.4 p.2
Procedure at General Meetings.....	cl.28 p.6
Proxies	
at Board Meetings	cl.49.2 p.10
at General Meetings	cl.24 p.6
Public Statements	cl.43 p.9
Quorum	
for Board Meetings	cl.47 p.10
for General Meetings.....	cl.26 p.6
Records	cl.54 p.10
Access to Records	cl.34 p.8
Register of Members.....	cl.17 p.4
"	cl.7.2 p.3
"	cl.14.3 p.3
"	cl.63.3 p.12
“the regulations”, “regulation”	cl.65.1(i) p.13
Regulations	cl.42 p.9
Removal	
of Directors	cl.31.6 p.7
of Members	cl.13 p.3
of Office-Bearers.....	cl.39.4 p.9
Replaceable Rules.....	cl.64 p.12
Resignation	
of Directors	cl.31.4 p.7
of Members	cl.12 p.3
of Office-Bearers.....	cl.39.2 p.9
Resolutions without Meeting	cl.52 p.10
Responsibility of the Board	cl.41.1 p.9
Review of Financial Report	cl.56 p.11
Rights of Members	cl.15 p.3
Secretary	cl.37(d) p.8
"	cl.35 p.8
"	cl.44.1 p.9
<i>see also</i> Company Secretary	
“signed”	cl.65.1(j) p.13
Special General Meetings	cl.22 p.5
“special resolution”.....	cl.65.1(k) p.13
Amendment of Constitution.....	cl.61 p.12
Winding Up.....	cl.62 p.12
Subscriptions	cl.11 p.3
Technology, Use of	
for Board Meetings	cl.46 p.9
for General Meetings.....	cl.25 p.6
Term of Office	
of Directors	cl.31 p.7
of Office-Bearers.....	cl.39 p.9
Transitional.....	cl.66 p.13
Treasurer.....	cl.37(c)..... p.8

Voting	
at Board Meetings	cl.49 p.10
at General Meetings	cl.27 p.6
Winding Up	cl.62 p.12
“writing”	cl.65.1(l) p.13

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