

TERMS OF A SPECIAL RESOLUTION TO AMEND

THE OBJECTS AND RULES OF THE HISTORY COUNCIL OF NEW SOUTH WALES INC

(THE CONSTITUTION)

The HCNSW Constitution is governed by the *Associations Incorporation Regulation 2022*.

This Regulation remakes the *Associations Incorporation Regulation 2016* under the *Associations Incorporation Act 2009*. The 2022 Regulation applied from 1 September 2022.

The 2022 Regulation provides for changes to the Model Constitution contained in the Regulation. The HCNSW Constitution has a bespoke constitution based for the most part on the Model Constitution, with modifications approved by past membership. Those organisations with bespoke constitutions require membership approval to change their constitutions through a special resolution.

Members are asked to vote on amendments to the Constitution set out in the two tables below.

1. Amendments required by the new Regulation (table 1). The Regulation Amendment column stipulates the required change. The Amendment to HCNSW Constitution column indicates the former and new wording for the HCNSW Constitution.
2. An amendment to reflect HCNSW values on language referring to First Nations Australians (table 2).

Table 1 – Amendments required by new regulation	
<i>REGULATION AMENDMENT</i>	AMENDMENT TO HCNSW CONSTITUTION
New Regulation.	Amend the Regulation year in definitions, like so. "the Regulation" means the Associations Incorporation Regulation 2016 2022;
<u>Application of Corporations legislation to associations</u> <i>Regulation 2022</i> 5(c)(iii) Prescribes "proceedings at the meeting" is to be read as including a reference to the vote conducted by a postal or electronic ballot as a matter relating to an association to be an applied Corporations legislation matter.	Insert wording at the end of this Section, like so. Note the additional change to pronouns. This instance is the only one in the constitution where gendered pronouns are referred to. This amendment inserts a non-binary pronoun to reflect HCNSW values of equity and inclusion. 20.4 THE SECRETARY 20.4.1 The Secretary of the association must, as soon as practicable after being appointed as secretary, lodge notice with the association of his or her address. their address. 20.4.2 It is the duty of the Secretary, if in the absence of a staff member, to keep minutes of: (a) all appointments of office-holders and members of the committee; (b) the names of councillors present at a Council meeting, members of the committee present at a committee meeting

	<p>and members of the association present at a general meeting; and (c) all proceedings at Council, committee and general meetings.</p> <p>20.4.3 Minutes of proceedings at a meeting must be signed by the chairperson of the meeting or by the chairperson of the next succeeding meeting.</p> <p>20.4.4 The signature of the chairperson may be transmitted by electronic means for the purposes of clause 20.4.3.</p> <p>20.4.5 Proceedings at meetings includes reference to a vote conducted by a postal or electronic ballot.</p>
<p><u>Financial statements for Tier 2 associations Regulation 2022</u> 14 (a)(i) The phrase “appropriately classified” has been removed from the requirement of Tier 2 associations to include their individual sources of income and expenses in their financial statements</p>	<p>Does not require constitutional amendment.</p>
<p><u>Conduct of postal or electronic ballots</u></p> <p>There are detailed changes to the Schedule governing conduct of postal and electronic ballots. See Summary of the changes to the Association Incorporation Regulation 2022 appended to this resolution document.</p>	<p>Amend reference to Schedule 3 to Schedule 2, like so.</p> <p>This simple change captures the amendments to this Section.</p> <p>36.5.2 A postal or electronic ballot is to be conducted in accordance with Schedule 3 Schedule 2 to the Regulation.</p>
<p><u>Model Constitution – Fees and Subscriptions</u></p> <p>Clarifies that an entrance fee must be paid just once by a successful applicant and not again on becoming a member. This amendment has been done for a clear and better reading of the Regulation.</p>	<p>No amendment to the constitution is required. There is no ambiguity about fee payment.</p> <p>8. FEES, SUBSCRIPTIONS, ETC</p> <p>8.1 A member of the association must, upon admission to membership, pay to the association a fee of \$1 or, if some other amount is determined by the General Council, that other amount.</p> <p>8.2 In addition to any amount payable by the member under clause 8.1 a member of the association must pay to the association an annual membership fee of \$2 or, if some other</p>

	<p>amount is determined by the General Council, that other amount - (a) exactly one year from the date of their previous payment.</p>
<p><u>Resolution of disputes</u></p> <p>Change to the reference of 2 members to 2 or more members.</p>	<p>Insert wording from the Model Constitution into the HCNSW Constitution, like so.</p> <p>10. RESOLUTION OF INTERNAL DISPUTES</p> <p>10.1 A dispute between a member and another member (in their capacity as members) of the association, or a dispute between a member or members and the association, are to be referred to a Community Justice Centre for mediation under the Community Justice Centres Act 1983.</p> <p>10.2 If a dispute is not resolved by mediation within 3 months of the referral to a Community Justice Centre, the dispute is to be referred to arbitration.</p> <p>10.3 The Commercial Arbitration Act 2010 applies to a dispute referred to arbitration.</p> <p>10.1 The following disputes must be referred to a Community Justice Centre within the meaning of the <i>Community Justice Centres Act 1983</i> for mediation—</p> <p style="padding-left: 40px;">10.1.1 a dispute between 2 or more members of the association, but only if the dispute is between the members in their capacity as members, or</p> <p style="padding-left: 40px;">10.1.2 a dispute between 1 or more members and the association.</p> <p>10.2 If the dispute is not resolved by mediation within 3 months of being referred to the Community Justice Centre, the dispute must be referred to arbitration.</p> <p>10.3 <i>The Commercial Arbitration Act 2010</i> applies to a dispute referred to arbitration.</p>
<p><u>Election of members</u></p> <p>Change the reference of two members to at least two members other than the candidate nominated for the election. This amendment also removes reference to the phrase “which may be endorsed on the form of the nomination.”</p> <p>Clarifies that further nominations are to be</p>	<p>Amend, like so.</p> <p>Note the additional change to remove redundancy in the number of members elected and to clarify HCNSW encouragement of Aboriginal and/or Torres Strait Islander representation on the Council.</p> <p>18. ELECTION OF COUNCILLORS</p> <p>18.1 The Council will comprise 10 persons, 10 of whom will be elected by the corporate and individual membership. with priority given to Indigenous members and representatives of Aboriginal organisation members of the association. The election notification process must include encouragement for Indigenous representation on the Council.</p> <p>18.2 Nominations for candidates for election for the General Council:</p>

<p>made in a way directed by the presiding member.</p>	<p>(a) must be made in writing (electronically is acceptable), signed by at least two members of the association other than the candidate and accompanied by the written consent of the candidate (which may be endorsed on the form of nomination); and</p> <p>(b) must not exceed 2 nominations from each corporate member</p> <p>(c) must be delivered to the Secretary of the association not less than 7 days before the date fixed for the holding of the annual general meeting if the election is to take place on that date.</p> <p>(d) must be delivered to the Secretary of the association not less 28 days before the date fixed for the holding of the annual general meeting if the election is to take place by postal ballot.</p> <p>18.3 If insufficient nominations are received to fill all vacancies on the General Council the candidates nominated are taken to be elected and further nominations must be received at the annual general meeting to achieve a Council of 10 members.</p> <p>18.4 A nomination made at the meeting in response to a call for further nominations must be made in the way directed by the member presiding at the meeting.</p> <p>18.45 If insufficient further nominations are received any vacant positions remaining on the General Council must be deemed to be casual vacancies.</p> <p>18.56 If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be deemed to be elected.</p> <p>18.67 If the number of nominations received exceeds the number of vacancies to be filled a ballot must be held.</p> <p>18.78 The ballot for the election of the General Council is to be conducted either at the general meeting or by a postal ballot conducted prior to the general meeting in such usual and proper manner as the committee directs.</p> <p>18.89 The office holders of the association will be elected from and by the General Council at the first meeting of the General Council following the annual general meeting.</p> <p>18.910 The ballots for the election of councillors shall be conducted every second year, with the first such ballot to be held for the election of the councillors that will take office in 2009.</p>
<p><u>Vacancies in office</u></p> <p>Allows only the association to appoint a member to fill a casual vacancy arising</p>	<p>Amendments, like so.</p> <p>21. CASUAL VACANCIES</p> <p>For the purpose of these rules, a casual vacancy in the office of a councillor or of a member of the committee occurs if the member:</p> <p>(a) dies;</p>

<p>from the removal of a committee member.</p> <p>Allows a committee member who has been removed to request that the committee send a copy of the statement at least 7 days before the general meeting at which the proposed resolution will be considered.</p>	<p>(b) ceases to be a member of the association; (c) becomes an insolvent under administration within the meaning of the Corporations Law; (d) resigns office by notice in writing given to the Secretary; (e) is removed from office under clause 22; (f) becomes a mentally incapacitated person; or (g) is absent without consent from all meetings of the General Council or the committee held during a period of 6 months (h) is convicted of an offence involving fraud or dishonesty for which the maximum penalty on conviction is imprisonment for not less than 3 months, or (i) is prohibited from being a director of a company under Part 2D.6 (Disqualification from managing corporations) of the Corporations Act 2001 of the Commonwealth.</p> <p>(a) dies, or (b) ceases to be a member of the association, or (c) resigns from office by written notice given to the secretary, or (d) is removed from office by the association under this clause, or (e) is absent without consent from all meetings of the General Council or the committee held during a period of 6 months, or (f) becomes an insolvent under administration within the meaning of the <i>Corporations Act 2001</i> of the Commonwealth, or (g) is prohibited from being a director of a company under the <i>Corporations Act 2001</i> of the Commonwealth, Part 2D.6, or (h) is convicted of an offence involving fraud or dishonesty for which the maximum penalty is imprisonment for at least 3 months, or (i) becomes a mentally incapacitated person.</p> <p>22. REMOVAL OF MEMBER</p> <p>22.1 The association in a general meeting may by resolution remove any member of the General Council or the committee from their office before the expiration of the councillor's or member's term of office and may by resolution appoint another person member of the association to hold office until the expiration for the term of office of the councillor or member so removed.</p> <p>22.2 If a member of the General Council or committee to whom a proposed resolution referred to in clause 22.1 relates makes representations in writing to the Secretary or President (not exceeding a reasonable length) and requests that the representations be notified to the members of the association, the Secretary or the President may send a copy of the representations to each member of the association at least 7 days before the general meeting at which the proposed</p>
---	---

	<p>resolution will be considered or, if the representations are not so sent, the member is entitled to require that the representations be read out at the meeting at which the resolution is considered.</p>
<p><u>Delegation to subcommittees</u></p> <p>Refers to the section 49 of the <i>Interpretation Act 1987</i> for consistency in language.</p>	<p>Insert wording, like so.</p> <p>25. DELEGATION BY THE GENERAL COUNCIL TO A SUB-COMMITTEE</p> <p>25.1 The General Council may, by instrument in writing, delegate to one or more sub-committees (consisting of such councillors or members of the association as the General Council thinks fit), or to the Executive Committee, the exercise of such of the functions of the General Council as are specified in the instrument, other than:</p> <ul style="list-style-type: none"> (a) this power of delegation, and (b) a function which is a duty imposed on the committee by the Act or by any other law. <p>25.2 A function the exercise of which has been delegated to a sub-committee under this clause may, while the delegation remains unrevoked, be exercised from time to time by the sub-committee in accordance with the terms of the delegation.</p> <p>25.3 A delegation under this clause may be made subject to any conditions or limitations as to the exercise of any function, or as to time or circumstances, that may be specified in the instrument of delegation.</p> <p>25.4 Despite any delegations under this clause the General Council may continue to exercise any function delegated.</p> <p>25.5 Any act or thing done or suffered by a sub-committee acting in the exercise of a delegation under this clause has the same force and effect as it would have if it had been done or suffered by the General Council.</p> <p>25.6 The General Council may, by instrument in writing, revoke wholly or in part any delegation under this clause.</p> <p>25.7 A sub-committee may meet and adjourn as it thinks proper.</p> <p>25.8 A member of a sub-committee shall be nominated by the other members to chair its meetings and report back to the General Council.</p> <p>25.9 A member of the sub-committee shall be nominated by the other members to keep an accurate record of the proceedings and decisions of the working party.</p> <p>26. DELEGATION BY THE EXECUTIVE COMMITTEE TO SUB-COMMITTEE</p> <p>26.1 The Executive Committee may, by instrument in writing, delegate to one or more sub-committees (consisting of such members of the association as the committee thinks fit) the exercise of such of the functions of the committee as are specified in the instrument, other than:</p> <ul style="list-style-type: none"> (a) this power of delegation, and (b) a function which is a duty imposed on the committee by the Act or by any other law.

	<p>26.2 A function the exercise of which has been delegated to a sub-committee under this clause may, while the delegation remains unrevoked, be exercised from time to time by the sub-committee in accordance with the terms of the delegation.</p> <p>26.3 A delegation under this clause may be made subject to such conditions or limitations as to the exercise of any function the subject thereof, or as to time or circumstances as may be specified in the instrument of delegation.</p> <p>26.4 Despite any delegations under this clause the committee may continue to exercise any function delegated.</p> <p>26.5 Any act or thing done or suffered by a sub-committee acting in the exercise of a delegation under this clause has the same force and effect as it would have if it had been done or suffered by the committee.</p> <p>26.6 The committee may, by instrument in writing, revoke wholly or in part any delegation under this clause.</p> <p>26.7 A sub-committee may meet and adjourn as it thinks proper.</p> <p>26.8 A member of a sub-committee shall be nominated by the other members to chair its meetings and report back to the committee.</p> <p>26.9 A member of the sub-committee shall be nominated by the other members to keep an accurate record of the proceedings and decisions of the sub-committee.</p> <p><i>Note— The Interpretation Act 1987, section 49 deals with various matters relating to delegations.</i></p>
<p><u>Use of technology at general and committee meetings</u></p> <p>Allows for conducting committee and general meetings and transaction of business outside meetings by telephone or other electronic means.</p>	<p>Amend and insert wording, like so.</p> <p>23. MEETINGS AND QUORUM OF THE GENERAL COUNCIL</p> <p>23.1.1 The General Council must meet at least 3 times in each period of 12 months at such place and time as the General Council may determine.</p> <p>23.1.2 A Council meeting may be held at 2 or more venues using any technology approved by the committee that gives each of the committee’s members a reasonable opportunity to participate.</p> <p>23.1.3 A Councillor who participates in a meeting using that technology is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.</p> <p><i>23.1.4 Technology may be used to conduct meetings as per Section 38.</i></p> <p>24. MEETINGS AND QUORUM OF THE EXECUTIVE COMMITTEE</p> <p>24.1 The first meeting of the Executive Committee shall be within 21 business days after election.</p> <p>24.2.1 The Executive Committee must meet at least 4 times in each period of 12 months at such place and time as the committee may determine.</p>

	<p>24.2.2 A committee meeting may be held at 2 or more venues using any technology approved by the committee that gives each of the committee’s members a reasonable opportunity to participate.</p> <p>24.2.4 Technology may be used to conduct meetings as per Section 38.</p> <p>38 TRANSACTION OF BUSINESS OUTSIDE MEETINGS OR BY TELEPHONE OR OTHER MEANS</p> <p>(1) The association may transact its business by the circulation of papers, including by electronic means, among all members of the association.</p> <p>(2) If the association transacts business by the circulation of papers, a written resolution, approved in writing by a majority of members, is taken to be a decision of the association made at a general meeting.</p> <p>(3) The association may transact its business at a general meeting at which 1 or more members participate by telephone or other electronic means, provided a member who speaks on a matter can be heard by the other members.</p> <p>(4) The member presiding at the meeting and each other member have the same voting rights as they would have at an ordinary meeting of the association for the purposes of—</p> <p style="padding-left: 40px;">(a) the approval of a resolution under subclause (2), or</p> <p style="padding-left: 40px;">(b) a meeting held in accordance with subclause (3).</p> <p>(5) A resolution approved under subclause (2) must be recorded in the minutes of the meetings of the association.</p> <p>Note— The Act, section 37(3) and (4) contains requirements relating to meetings held at 2 or more venues using technology.</p>
<p><u>Adjournment</u></p> <p>Requires the secretary to give oral or written notice, to each member of the association, at least one day before the adjourned meeting.</p>	<p>Amend, like so.</p> <p>Note that Section 33.3 is removed as there is no similar clause in the Model Constitution.</p> <p>33. ADJOURNMENT</p> <p>33.1 The chairperson of a general meeting at which a quorum is present may, with the consent of the majority of the members present at the meeting, adjourn the meeting from time to time and place to place, to another time and place but no business may be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.</p> <p>33.2 Where 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 association stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting. If a meeting is adjourned for at least 14</p>

	<p>days, the secretary must give each member oral or written notice, at least 1 day before the adjourned meeting, of—</p> <p>(a) the time and place at which the adjourned meeting will be held, and</p> <p>(b) the nature of the business to be transacted at the adjourned meeting.</p> <p>33.3 Except as provided in clauses 32.1 and 32.2, notice of an adjournment of a general meeting or of the business to be transacted at an adjourned meeting is not required to be given.</p>
<p><u>Special Resolution</u></p> <p>Removed for redundancy due to change in Schedules of the Model Constitution.</p>	No amendment required to the constitution.
<p><u>Insurance</u></p> <p>Clarifies that the insurance may be appropriate to the association’s assets and liabilities.</p>	<p>Amend, like so.</p> <p>40. INSURANCE</p> <p>The association must effect and maintain insurance. The association may take out and maintain insurance as appropriate for the association’s assets and liabilities.</p>
<p><u>Fees</u></p> <p>Adjusts the fee unit for inflation.</p>	Refers to fees payable by the association. No amendments to the constitution required.

Table 2 – Amendments recommended by HCNSW Councillors to reflect organisational values
SUGGESTED AMENDMENT
<p>1.3 In these rules:</p> <p>"Aboriginal and/or Torres Strait Islander member" means a member who is recognised by an Aboriginal or Torres Strait Islander community and who indicates this on the membership application form;</p> <p>“Aboriginal and/or Torres Strait Islander organisation” means an association, body or group comprised, or substantially comprised, of Aboriginal or Torres Strait Islander persons having as its principal objects the furtherance of interests of Aboriginal and Torres Strait Islander people and communities;</p>