



**CONSTITUTION
OF
NEW SOUTH WALES POLICE LEGACY LIMITED**

Australian Company Number (ACN) 051 341 087

Australian Business Number (ABN) 70 051 341 087

A company limited by guarantee

CONSTITUTION OF NEW SOUTH WALES POLICE LEGACY LIMITED

Table of contents

Preliminary

- 1 Name of the company
- 2 Type of company
- 3 Limited liability of members
- 4 The guarantee
- 5 Definitions

Charitable purposes and powers

- 6 Objects
- 7 Application for Aid
- 8 Fundraising facilitation services
- 9 Powers
- 10 Not-for-profit
- 11 Amending the constitution

Members

- 12 Membership and register of members
- 13 When a person stops being a member

Dispute resolution and disciplinary procedures

- 14 Dispute resolution
- 15 Disciplining members

Meetings of members

- 16 Extraordinary General meetings called by the Board
- 17 Annual general meeting (AGM)
- 18 Notice of AGM
- 19 Quorum at AGM
- 20 Auditor's right to attend meetings
- 21 Using technology to hold meetings
- 22 Chairperson for General meetings
- 23 Role of the chairperson
- 24 Adjournment of meetings

Members' resolutions and statements

- 25 Members' resolutions and statements
- 26 Company must give notice of proposed resolution or distribute statement
- 27 Circular resolutions of members

Voting at general meetings

- 28 How many votes a member has
- 29 Challenge to member's right to vote
- 30 How voting is carried out

- 31 When and how a vote in writing must be held

Directors

- 32 Board and Officers
- 33 Election and appointment of Directors
- 34 Election of Chair, Vice-Chair and Honorary Treasurer
- 35 Term of office
- 36 When a Director stops being a Director

Powers of Directors

- 37 Powers of Directors
- 38 Delegation of Directors' powers
- 39 Payments to Directors
- 40 Execution of Documents

Duties of directors

- 41 Duties of Directors
- 42 Conflicts of interest

Directors' meetings

- 43 When the Directors meet
- 44 Calling Directors' meetings
- 45 Chairperson for Directors meetings
- 46 Quorum at Directors' meetings
- 47 Using technology to hold Directors' meetings
- 48 Passing Directors' resolutions
- 49 Circular resolutions of Directors

Company secretary

- 50 Appointment and role of Company Secretary

Minutes and records

- 51 Minutes and records
- 52 Financial and related records

By-laws

- 53 By-laws

Notice

- 54 What is notice
- 55 Notice to the company
- 56 Notice to Members

CONSTITUTION OF NEW SOUTH WALES POLICE LEGACY LIMITED

57 When notice is taken to be given

Financial year

58 Company's financial year

Indemnity, insurance and access

59 Indemnity

60 Insurance

61 Directors' access to documents

Winding up

62 Surplus assets not to be distributed to members

63 Distribution of surplus assets

Deductible Gift Recipient Clause

64 Deductible Gift Recipient Clause

Definitions and interpretation

65 Definitions

66 Reading this constitution with the Corporations Act

67 Interpretation

Preliminary

1. Name of the company

The name of the **Company** is New South Wales Police Legacy Limited.

2. Type of company

The **Company** is a not-for-profit public company limited by guarantee which is established to be, and to continue as a charity.

3. Limited liability of members

The liability of **Members** is limited to the amount of the guarantee in clause 4.

4. The guarantee

Each **Member** must contribute an amount not more than \$10 (the guarantee) to the property of the **Company** if the **Company** is wound up while the **Member** is a **Member**, or within 12 months after they stop being a **Member**, and this contribution is required to pay for the:

- (a) debts and liabilities of the **Company** incurred before the **Member** stopped being a **Member**, or
- (b) the costs of winding up.

5. Definitions

In this constitution, words and phrases have the meaning set out in clause 65.

Charitable purposes and powers

6. Objects

The **Company's** object is to build a strong, resilient and charitable police family.

The objects of which the **Company** has been established are:

- (a) To render personal and/or financial aid, assistance and benefits to approved beneficiaries including **Eligible Applicants** and **Fundraising Beneficiaries**.
- (b) To raise funds for the purpose of affording such aid, assistance and benefits.
- (c) To give any guarantee or indemnity that may seem expedient.
- (d) To take any gift or property, whether subject of any special trust or not, for any one or more objectives of the **Company**.
- (e) To purchase, sell, manage, lease, mortgage, dispose of, or otherwise deal with all or any part of the property of the **Company** and should any such

CONSTITUTION OF NEW SOUTH WALES POLICE LEGACY LIMITED

property be subject to any trust, the **Company** shall deal only with the same in such manner as is allowed by law, having regard to such trusts.

- (f) To borrow and raise money for the purpose of the **Company** in such manner as the **Board** may think fit.
- (g) To enter into arrangements with the Police Association of New South Wales for the transfer to the **Company** of monies or other assets collected by or donated to the **Company**.
- (h) To operate as a non-profit organisation. Any monies received shall be used exclusively for the objectives of the **Company** and no portion thereof shall be paid or transferred directly or indirectly by way of divided bonus or otherwise by way of profit to members of the **Company**. Nothing herein shall prevent the payment in good faith of remuneration to any officer or employee of the **Company** or to any member of the **Company** in return for any services actually rendered to the **Company**.
- (i) To subscribe to, become a member of and co-operate with any other association or organisation, whether incorporated or not, whose objects are altogether or in part similar to those of the **Company**; provided that the **Company** shall not subscribe to or support with its funds any assistance or organisation which does not prohibit distribution of its income and property among its members.
- (j) To establish and administer any trust fund or program which is in furtherance of the objects of the **Company**.
- (k) In furtherance of the objects of the **Company**, to buy, sell and deal in all kinds of apparatus, literature and other items required by **Members** or persons frequenting the **Company's** premises.
- (l) To purchase, take on lease or in exchange, hire and otherwise acquire any lands, buildings, easements or property, real and personal and any rights or privileges which may be requisite for the purpose of, or capable of being conveniently used in connection with, any of the objects of the **Company**. In the case that the **Company** shall take or hold any property which may be subject to any trusts, the **Company** shall only deal with same in such a manner as is allowed by law having regard to such trusts.
- (m) To enter into any arrangements with any government or authority, supreme municipal, local or otherwise, that may be conducive to any of the **Company's** objects and to obtain from such arrangements any rights, privileges and concessions which the **Company** thinks are desirable to obtain; and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions.

CONSTITUTION OF NEW SOUTH WALES POLICE LEGACY LIMITED

- (n) To appoint, employ, remove or suspend such managers, clerks, secretaries, volunteers, workmen and other persons as may be necessary or convenient for the purpose of the **Company**.
- (o) To construct, improve, maintain, develop, work, manage, carry out, alter or control any houses, buildings, grounds, works or conveniences that may seem calculated directly or indirectly to advance the **Company** interest. To contribute to, subsidise or otherwise assist and take part in the construction, improvement, maintenance, development, management, alteration or control thereof.
- (p) To lend, invest, or deal with any monies of the **Company**, not immediately required for any of its objectives, in such manner as from time to time be determined by the **Board** and to vary same.
- (q) To borrow or raise or secure the payment of money in such manner as the **Company** may think fit and to secure the same or the repayment or performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the **Company** in any way and in particular by the issue of debentures perpetual or otherwise charged upon all or any of the **Company's** property (both present and future), and to purchase, redeem or pay off any such securities.
- (r) To make, draw, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading and other negotiable or transferable instruments.
- (s) In furtherance of the objects of the **Company**, to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any part of the property and rights of the **Company**.
- (t) To take or hold mortgages, liens and charges to secure payment of the purchase price or any unpaid balance of the purchase price, of any part of the **Company's** property of whatsoever kind sold by the **Company**, or any money due to the **Company** from purchasers and others.
- (u) In furtherance of the objects of the **Company**, to amalgamate with any companies, institutions, societies or associations having objects altogether or in part similar to those of the **Company** and which shall prohibit the distribution of its or their income and property among its or their members to an extent or least as great as that imposed upon the **Company**.
- (v) In furtherance of the objects of the **Company**, to purchase or otherwise acquire and undertake all or any part of the property, assets, liabilities and engagements or any one or more companies, institutions, societies or associations with which the **Company** is authorised to amalgamate.

CONSTITUTION OF NEW SOUTH WALES POLICE LEGACY LIMITED

- (w) In furtherance of the objects of the **Company**, to transfer all or any part of the property, assets, liabilities and engagements of the **Company** to any one or more of the companies, institutions, societies or associations with which the **Company** is authorised to amalgamate.
- (x) To make donations for charitable purposes.
- (y) To manage as trustee, the trust property comprising the charitable trust known as the Police Benevolent Fund, with the income from the Police Benevolent Fund being applied for the purpose of granting assistance to serving or former members of the **NSW Police Force**, or to their dependent or surviving dependents who are in necessitous circumstances. The **Company** in its capacity as trustee may develop rules for the administration of the Police Benevolent Fund in accordance with this constitution and with the spirit and intent of the Police Benevolent Fund. Such rules will require that no person shall be eligible for relief from the Police Benevolent Fund where the necessitous circumstances have arisen through that person's misconduct.
- (z) To manage and administer any program funded by government and/or any other statutory authority and/or any other person or entity, with the funds for the program being applied for the purpose of granting assistance to approved beneficiaries. Where such external financial support ceases, continuance for the program shall be determined by the **Board**.
- (aa) The **Company** aims to do all things as are incidental to or conducive to the attainment of the above objects.

7. Application for Aid

- (a) An **Eligible Applicant** may make an application for **Aid**.
- (b) All applications for **Aid** shall be made in writing in the form prescribed by the **Board** provided that the consideration of any applications shall not be delayed or an application shall not be refused on account of want of form.
- (c) In addition to all powers expressly conferred upon it and without detracting from the generality of the powers under this and other clauses, the **Board** shall have the following powers:
 - (i) to determine whether an applicant for **Aid** is an eligible applicant;
 - (ii) to determine whether an application for **Aid** is approved or rejected; and
 - (iii) in the case of an approved application for **Aid**, the determination of the amount of such **Aid**, its terms and its form;

CONSTITUTION OF NEW SOUTH WALES POLICE LEGACY LIMITED

- (d) The **Board** shall not be required to provide reasons for any determination made in the exercise of the power hereby conferred.

8. Fundraising facilitation services

- (a) The **Board** may consider any application for the **Company** to provide **Fundraising Facilitation Services** in respect of any prospective **Fundraising Beneficiary** and may determine any such application as it sees fit and in its absolute discretion.
- (b) The **Board** shall adjudicate the distribution of all funds received in the provision of its **Fundraising Facilitation Services** in its absolute discretion provided that the discretion must be exercised for the purposes of the maintenance, education and advancement of the life of the **Fundraising Beneficiary** and his or her spouse, children or any other financially or otherwise significantly dependent person upon the said **Fundraising Beneficiary**.

9. Powers

Subject to clause 6, the **Company** has the following powers, which may only be used to carry out its purpose(s) set out in clause 6:

- (a) the powers of an individual, and
- (b) all the powers of a **Company** limited by guarantee under the **Corporations Act**.

10. Not-for-profit

- 10.1 The **Company** must not distribute any income or assets directly or indirectly to its **Members**, except as provided in clauses 10.2 and 65.
- 10.2 Clause 10.1 does not stop the **Company** from doing the following things, provided they are done in good faith:
 - (a) paying a **Member** for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the **company**, or
 - (b) making a payment to a **Member** in carrying out the **Company's** charitable purpose(s).

11. Amending the constitution

- 11.1 Subject to clause 11.2, the **Members** may amend this constitution by passing a **Special Resolution**.

- 11.2 The **Members** must not pass a **Special Resolution** that amends this constitution if passing it causes the **Company** to no longer be a charity.

12. Membership and register of members

- 12.1 The **Members** of the **Company** are:

- (i) the persons whose names are recorded as directors of the Company on the Australian Charities and Not for Profit Commission register from time to time; and
- (ii) any other persons the Directors admit to membership in accordance with this Constitution.

- 12.2 The **Company** will also maintain a register of **Members** which shall be held at the principal place of business of the **Company**.

13. When a person stops being a member

A person immediately stops being a member if they:

- (a) die;
- (b) resign, by writing to the Company secretary;
- (c) are expelled under clause 15; or
- (d) have not responded within three months to a written request from the **Company Secretary** that they confirm in writing that they want to remain a member.

Dispute resolution and disciplinary procedures

14. Dispute resolution

- 14.1 The dispute resolution procedure in this clause applies to disputes (disagreements) under this constitution between a **Member and** any one or more of the following:

- (a) one or more **Members**; and
- (b) the **Company**.

- 14.2 A **Member** must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under clause 15 until the disciplinary procedure is completed.

CONSTITUTION OF NEW SOUTH WALES POLICE LEGACY LIMITED

- 14.3 Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it.
- 14.4 If those involved in the dispute do not resolve it under clause 14.3, they must within 10 days:
- (a) tell the **Members** about the dispute in writing;
 - (b) agree or request that a mediator be appointed; and
 - (c) attempt in good faith to settle the dispute by mediation.
- 14.5 The mediator must:
- (a) be chosen by agreement of those involved in the dispute; or
 - (b) where those involved do not agree:
 - i. for disputes between **Members**, a person chosen by the **Chairperson**, or
 - ii. for other disputes, a person chosen by either the Commissioner of the Australian Charities and Not-for-profits Commission or the president of the Law Society of New South Wales.
- 14.6 A mediator chosen by the **Chairperson** under clause 14.5(b)(i):
- (a) may be a member or former member of the **Company**;
 - (b) must not have a personal interest in the dispute; and
 - (c) must not be biased towards or against anyone involved in the dispute.
- 14.7 When conducting the mediation, the mediator must:
- (a) allow those involved a reasonable chance to be heard;
 - (b) allow those involved a reasonable chance to review any written statements;
 - (c) ensure that those involved are given natural justice; and
 - (d) not make a decision on the dispute.

15. Disciplining members

- 15.1 In accordance with this clause, the **Board** may resolve to warn, suspend or expel a **Member** from the **Company** if the **Board** considers that:
- (a) the **Member** has breached this constitution; or
 - (b) the **Member's** behaviour is causing, has caused, or is likely to cause harm to the **Company**.
- 15.2 At least 14 days before the **Board** meeting at which a resolution under clause 15.1 will be considered, the **Company Secretary** must notify the **Member** in writing:

CONSTITUTION OF NEW SOUTH WALES POLICE LEGACY LIMITED

- (a) that the **Board** are considering a resolution to warn, suspend or expel the member;
 - (b) that this resolution will be considered at a **Board** meeting and the date of that meeting;
 - (c) what the **Member** is said to have done or not done;
 - (d) the nature of the resolution that has been proposed; and
 - (e) that the **Member** may provide an explanation to the **Board**, and details of how to do so.
- 15.3 Before the **Board** passes any resolution under clause 15.1, the **Member** must be given a chance to explain or defend themselves by:
- (a) sending the **Board** a written explanation before that **Board** meeting; and/or
 - (b) speaking at the meeting.
- 15.4 After considering any explanation under clause 15.3, the **Board** may:
- (a) take no further action;
 - (b) warn the **Member**;
 - (c) suspend the **Member's** rights as a **Member** for a period of no more than 12 months;
 - (d) expel the **Member**;
 - (e) refer the decision to an unbiased, independent person on conditions that the **Board** considers appropriate (however, the person can only make a decision that the directors could have made under this clause); or
 - (f) require the matter to be determined at a **General Meeting**.
- 15.5 The **Board** cannot fine a **Member**.
- 15.6 The **Company Secretary** must give written notice to the **Member** of the decision under clause 15.4 as soon as possible.
- 15.7 Disciplinary procedures must be completed as soon as reasonably practical.
- 15.8 There will be no liability for any loss or injury suffered by the **Member** as a result of any decision made in good faith under this clause.

Meetings of members

16. Extraordinary General meetings called by the Board

- 16.1 The **Board** may call an extraordinary general meeting (**EGM**).
- 16.2 If at least 50% of the **Board** make a written request to the **Company** for an **EGM** to be held (**EGM Members' Request**), the **Directors** must:

CONSTITUTION OF NEW SOUTH WALES POLICE LEGACY LIMITED

- (a) within 21 days of the **EGM Members' Request**, give all **Members** notice of a **EGM**, and
- (b) hold the **EGM** within 2 months of the **EGM Members' Request** .

16.3 The **Members** who make the **EGM Members' Request** must:

- (a) state in the **EGM Members' Request** any resolution to be proposed at the meeting;
- (b) sign the **EGM Members' Request** , and
- (c) give the **EGM Members' Request** to the **Company**.

16.4 Separate copies of a document setting out the request may be signed by **Members** if the wording of the request is the same in each copy.

17. Annual general meeting

17.1 A **General Meeting**, called the **Annual General Meeting (AGM)**, must be held:

- (a) within 18 months after registration of the **Company**, and
- (b) after the first **AGM**, at least once in every calendar year.

17.2 Even if these items are not set out in the notice of meeting, the business of an **AGM** may include:

- (a) a review of the **Company's** activities;
- (b) a review of the **Company's** finances;
- (c) any auditor's report;
- (d) the election of **Directors**, and
- (e) the appointment and payment of auditors, if any.

17.3 Before or at the **AGM**, the **Directors** must give information to the **Members** on the **Company's** activities and finances during the period since the last **AGM**.

17.4 The **Chairperson** of the **AGM** must give attendees whom the **Board** permit to attend the **AGM** as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of the **Company**.

18. Notice of AGM

18.1 Notice of an **AGM** must be given to:

- (a) each **Member** entitled to vote at a meeting;

CONSTITUTION OF NEW SOUTH WALES POLICE LEGACY LIMITED

- (b) the auditor
- 18.2 Notice of an **AGM** must be provided in writing at least 21 days before the meeting and should be circularised generally and as appropriate.
- 18.3 Subject to clause 18.4, notice of a meeting may be provided less than 21 days before the meeting if:
- (a) for an **AGM**, all the **Members** entitled to attend and vote at the **AGM** agree beforehand; or
 - (b) for any other **General Meeting, Members** with at least 95% of the votes that may be cast at the meeting agree beforehand.
- 18.4 Notice of a meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:
- (a) remove a **Director**;
 - (b) appoint a **Director** in order to replace a **Director** who was removed, or
 - (c) remove an auditor.
- 18.5 Notice of an **AGM** must include:
- (a) the place, date and time for the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
 - (b) the general nature of the meeting's business;
 - (c) if applicable, that a **Special Resolution** is to be proposed and the words of the proposed resolution;
 - (d) a statement that **Members** do not have the right to appoint proxies and must be present in person.
- 18.6 If an **AGM** is adjourned (put off) for 1 month or more, the **Members** must be given new notice of the resumed meeting.

19. Quorum at AGM

- 19.1 For an **AGM** to be held more than 50% of **Members** (a quorum) must be present (in person) for the whole meeting. When determining whether a quorum is present, a person may only be counted once.
- 19.2 No business may be conducted at an **AGM** if a quorum is not present.
- 19.3 If there is no quorum present within 30 minutes after the starting time stated in the notice of the **AGM**, the **AGM** is adjourned to the date, time and place

that the **Chairperson** specifies. If the **Chairperson** does not specify one or more of those things, the meeting is adjourned to:

- (a) if the date is not specified – the same day in the next week;
- (b) if the time is not specified – the same time, and
- (c) if the place is not specified – the same place.

19.4 If no quorum is present at the resumed meeting within 30 minutes after the starting time set for that meeting, the meeting is cancelled.

20. Auditor's right to attend meetings

20.1 The auditor is entitled to attend any **General Meeting** and to be heard by the **Members** on any part of the business of the meeting that concerns the auditor in the capacity of auditor.

20.2 The **Company** must give the auditor any communications relating to the **General Meeting** that a **Member** of the **Company** is entitled to receive.

21. Using technology to hold meetings

21.1 The **Company** may hold a **General Meeting** at 2 or more venues using any technology that gives the **Members** as a whole a reasonable opportunity to participate, including to hear and be heard.

21.2 Anyone using this technology is taken to be present in person at the meeting.

22. Chairperson for general meetings

22.1 The elected **Chairperson** is entitled to chair **General Meetings**.

22.2 The **Members** present and entitled to vote at a **General Meeting** may choose a **Member** to be the **Chairperson** for that meeting if:

- (a) there is no elected **Chairperson**, or
- (b) the elected **Chairperson** is not present within 30 minutes after the starting time set for the meeting, or
- (c) the elected **Chairperson** is present but says they do not wish to act as chairperson of the meeting.

23. Role of the Chairperson

- 23.1 The **Chairperson** is responsible for the conduct of the **General Meeting**, and for this purpose must give **Members** a reasonable opportunity to make comments and ask questions (including to the auditor (if any)).
- 23.2 The **Chairperson** will have a casting vote.

24. Adjournment of meetings

- 24.1 If a quorum is present, a **General Meeting** must be adjourned if a majority of **Members Present** direct the **Chairperson** to adjourn it.
- 24.2 Only unfinished business may be dealt with at a meeting resumed after an adjournment.

Members' resolutions and statements

25. Members' resolutions and statements

- 25.1 Greater than fifty percent (50%) of **Members** may give:
- (a) written notice to the **Company** of a resolution they propose to move at a **General Meeting** (members' resolution), and/or
 - (b) a written request to the **Company** that the **Company** give all of its **Members** a statement about a proposed resolution or any other matter that may properly be considered at a **General Meeting (Members' Statement)**.
- 25.2 A notice of a **Members'** resolution must set out the wording of the proposed resolution and be signed by the **Members** proposing the resolution.
- 25.3 A request to distribute a **Members' Statement** must set out the statement to be distributed and be signed by the **Members** making the request.
- 25.4 Separate copies of a document setting out the notice or request may be signed by **Members** if the wording is the same in each copy.
- 25.5 The percentage of votes that **Members** have (as described in clause 28.1) is to be worked out as at midnight before the request or notice is given to the **Company**.
- 25.6 If the **Company** has been given notice of a **Members'** resolution under clause 25.1(a), the resolution must be considered at the next **General Meeting** held no more than 2 months after the notice is given.

25.7 This clause does not limit any other right that a **Member** has to propose a resolution at a **General Meeting**.

26. Company must give notice of proposed resolution or distribute statement

26.1 If the **Company** has been given a notice or request under clause 25:

- (a) in time to send the notice of proposed **Members'** resolution or a copy of the **Members' Statement** to **Members** with a notice of meeting, it must do so at the **Company's** cost, or
- (b) if too late to send the notice of proposed **Members'** resolution or a copy of the **Members'** statement to **Members** with a notice of meeting, then the **Members** who proposed the resolution or made the request must pay the expenses reasonably incurred by the **Company** in giving **Members** notice of the proposed **Members'** resolution or a copy of the **Members'** statement. However, at a **General Meeting**, the **Members** may pass a resolution that the **Company** will pay these expenses.

26.2 The **Company** does not need to send the notice of a proposed **Members'** resolution or a copy of the **Members'** statement to **Members** if:

- (a) it is more than 1,000 words long;
- (b) the **Board** consider it may be defamatory;
- (c) clause 26.1(b) applies, and the **Members** who proposed the resolution or made the request have not paid the **Company** enough money to cover the cost of sending the notice of the proposed **Members'** resolution or a copy of the **Members'** statement to members, or
- (d) in the case of a proposed **Members'** resolution, the resolution does not relate to a matter that may be properly considered at a **General Meeting** or is otherwise not a valid resolution able to be put to the **Members**.

27. Circular Resolution of Members

27.1 Subject to clause 27.3, the **Directors** may put a resolution to the **Members** to pass a resolution without a **General Meeting** being held (a circular resolution).

27.2 The **Directors** must notify the auditor (if any) as soon as possible that a circular resolution has or will be put to **Members**, and set out the wording of the resolution.

CONSTITUTION OF NEW SOUTH WALES POLICE LEGACY LIMITED

- 27.3 Circular resolutions cannot be used:
- (a) for a resolution to remove an auditor, appoint a **Director** or remove a **Director**;
 - (b) for passing a **Special Resolution**, or
 - (c) where the **Corporations Act** or this constitution requires a meeting to be held.
- 27.4 A circular resolution is passed if at least 75% of the **Members** entitled to vote on the resolution sign or agree to the circular resolution, in the manner set out in clause 27.5 or clause 27.6.
- 27.5 **Members** may sign:
- (a) a single document setting out the circular resolution and containing a statement that they agree to the resolution, or
 - (b) separate copies of that document, as long as the wording is the same in each copy.
- 27.6 The **Company** may send a circular resolution by email to **Members** and **Members** may agree by sending a reply email to that effect, including the text of the resolution in their reply.

Voting at General Meetings

28. How many votes a member has

Each **Member** has 1 vote.

29. Challenge to member's right to vote

- 29.1 A **Member** or the **Chairperson** may only challenge a person's right to vote at a **General Meeting** at that meeting.
- 29.2 If a challenge is made under clause 29.1, the **Chairperson** must decide whether or not the person may vote. The **Chairperson's** decision is final.

30. How voting is carried out

- 30.1 Voting must be conducted and decided by:
- (a) a show of hands; or
 - (b) a vote in writing, or
 - (c) another method chosen by the **Chairperson** that is fair and reasonable in the circumstances.
- 30.2 Before a vote is taken, the **Chairperson** must state whether any proxy votes have been received and, if so, how the proxy votes will be cast.

CONSTITUTION OF NEW SOUTH WALES POLICE LEGACY LIMITED

- 30.3 On a show of hands, the **Chairperson's** decision is conclusive evidence of the result of the vote.
- 30.4 The **Chairperson** and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.

31. When and how a vote in writing must be held

- 31.1 A vote in writing may be demanded on any resolution instead of or after a vote by a show of hands by:
- (a) A **Member Present**; or
 - (b) the **Chairperson**.
- 31.2 A vote in writing must be taken when and how the **Chairperson** directs, unless clause 31.3 applies.
- 31.3 A vote in writing must be held immediately if it is demanded under clause 30.1:
- (a) for the election of a **Chairperson** under clause 22, or
 - (b) to decide whether to adjourn the meeting.
- 31.4 A demand for a vote in writing may be withdrawn.

Directors

32. Board and Officers

- 32.1 The officers of the **Company** shall consist of a **Chair, a Vice-Chair and an Honorary Treasurer**.
- 32.2 If the **Board** consists of at least 12 **Members**, the **Board** shall comprise not less than the following:
- (a) 7 nominees of the Police Association of New South Wales;
 - (b) 1 nominee of the New South Wales Minister for Police;
 - (c) 1 nominee of the New South Wales Commissioner of Police;
 - (d) 3 nominees of the **Board**,
- (Collectively, **Nominees**).

33. Election and appointment of directors

- 33.1 The **Directors** are the people who have agreed to act as directors of the **Company**.
- 33.2 Apart from the initial **Directors** and **Directors** appointed under clause 33.4, the **Directors** may elect a Director by a resolution passed in a **general meeting**.
- 33.3 A person is eligible for election as a **Director** of the **Company** if they:
- (a) give the **Company** their signed consent to act as a **Director** of the **Company**, and
 - (b) are not ineligible to be a **Director** under the **Corporations Act** or the **ACNC Act**.
- 33.4 The **Board** may appoint a person as a **Director** to fill a casual vacancy or as an additional **Director** if that person:
- (a) gives the **Company** their signed consent to act as a director of the **Company**, and
 - (b) is not ineligible to be a director under the **Corporations Act** or the **ACNC Act**.

If the number of **Directors** is reduced to fewer than 5 or is less than the number required for a quorum, the continuing **Directors** may act for the purpose of increasing the number of directors to 5 (or higher if required for a quorum) or calling a **General Meeting**, but for no other purpose.

34. Election of Chairperson , Vice Chairperson and Honorary Treasurer

The Board must elect 3 of the **Nominees**, severally, to be

- (a) the **Chairperson** (must be a serving NSW Police Officer);
- (b) the **Vice-Chairperson** (must be a serving or former NSW Police Officer);
- (c) the **Honorary Treasurer**.

35. Term of office

- 35.1 At each **AGM**:
- (a) any **Director** appointed by the **Directors** to fill a casual vacancy or as an additional **Director** must retire, and

- (b) at least one-third of the remaining **Directors** must retire.
- 35.2 The **Directors** who must retire at each **AGM** under clause 35.1(b) will be the **Directors** who have been longest in office since last being elected. Where **Directors** were elected on the same day, the **Director(s)** to retire will be decided by lot unless they agree otherwise.
- 35.3 Other than a director appointed under clause 33.4, a **Director's** term of office starts at the end of the **AGM** at which they are elected and ends at the end of the **AGM** at which they retire.
- 35.4 Each **Director** must retire at least once every 3 years.
- 35.5 A **Director** who retires under clause 35.1 may nominate for election or re-election, subject to clause 36.6.
- 35.6 A **Director** who has held office for a continuous period of 9 years or more may only be re-appointed or re-elected by a **Special Resolution** if the **Board** believes there are compelling reasons to do so.

36. When a director stops being a director

A **Director** stops being a **Director** if they:

- (a) give written notice of resignation as a **Director** to the **Company**;
- (b) die;
- (c) are removed as a **Director** by a resolution of **Members** under clause 37.3;
- (d) are a nominee **Director** and the nominating person notifies the **Company** that the representative is no longer a nominee;
- (e) are absent for three (3) consecutive **Directors'** meetings without approval from the **Board** ; or
- (f) become ineligible to be a **Director** of the **Company** under the **Corporations Act** or the **ACNC Act**.

Powers of directors

37. Powers of Directors

- 37.1 The **Directors** are responsible for managing and directing the activities of the **Company** to achieve the purpose(s) set out in clause 6 of this constitution.
- 37.2 The **Directors** must decide on the responsible financial management of the **Company** including:

CONSTITUTION OF NEW SOUTH WALES POLICE LEGACY LIMITED

- (a) any suitable written delegations of power under clause 37, and
- (b) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.

37.3 **Directors** and auditors may only be removed by a **Members'** resolution at a **General Meeting**.

38. Delegation of Directors' powers

38.1 The **Directors** may delegate any of their powers and functions to a committee, a **Director**, an employee of the **Company** (such as a executive manager) or any other person, as they consider appropriate.

38.2 The delegation must be recorded in the **Company's** minute book.

39. Payments to Directors

39.1 The **Company** must not pay fees to a **Director** for acting as a **Director**.

39.2 The **Company** may:

- (a) pay a **Director** for work they do for the **Company**, other than as a **Director**, if the amount is no more than a reasonable fee for the work done; or
- (b) reimburse a **Director** for expenses properly incurred by the **Director** in connection with the affairs of the **Company**.

39.3 Any payment made under clause 39.2 must be approved by 75% of the **Directors**.

39.4 The **Company** may pay premiums for insurance indemnifying **Directors**, as allowed for by law (including the **Corporations Act**) and this constitution.

40. Execution of documents

The **Company** may execute a document without using a common seal if the document is signed by:

- (a) 2 **Directors** of the **Company**, or
- (b) a **Director** and the **Company Secretary**.

Duties of directors

41. Duties of Directors

The **Directors** must comply with their duties as **Directors** under legislation and common law (judge-made law), and with the duties described in governance standard 5 of the regulations made under the **ACNC Act** which are:

- (a) to exercise their powers and discharge their 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 best interests of the **Company** and to further the charitable purpose(s) of the **Company** set out in clause 6 of this constitution;
- (c) not to misuse their position as a **Director**;
- (d) not to misuse information they gain in their role as a **Director**;
- (e) to disclose any perceived or actual material conflicts of interest in the manner set out in clause 42;
- (f) to ensure that the financial affairs of the **Company** are managed responsibly, and
- (g) not to allow the **Company** to operate while it is insolvent.

42. Conflicts of interest

- 42.1 A **Director** must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of **Directors** (or that is proposed in a circular resolution) to the other **Directors**.
- 42.2 The disclosure of a conflict of interest by a **Director** must be recorded in the minutes of the meeting.
- 42.3 Each **Director** who has a material personal interest in a matter that is being considered at a meeting of **Directors** (or that is proposed in a circular resolution) must not, except as provided under clause 42.4:
 - (a) be present at the meeting while the matter is being discussed, or
 - (b) vote on the matter.

42.4 A **Director** may still be present and vote if:

- (a) their interest arises because they are a **Member** of the **Company**, and the other **Members** have the same interest;
- (b) their interest relates to an insurance contract that insures, or would insure, the **Director** against liabilities that the **Director** incurs as a **Director** of the **Company** (see clause 60);
- (c) their interest relates to a payment by the **Company** under clause 59 (indemnity), or any contract relating to an indemnity that is allowed under the **Corporations Act**;
- (d) the Australian Securities and Investments Commission (**ASIC**) makes an order allowing the **Director** to vote on the matter; or
- (e) the **Directors** who do not have a material personal interest in the matter pass a resolution that:
 - (i) identifies the **Director**, the nature and extent of the **Director's** interest in the matter and how it relates to the affairs of the **Company**, and
 - (ii) says that those **Directors** are satisfied that the interest should not stop the **Director** from voting or being present.

Directors' meetings

43. When the Directors meet

The **Directors** may decide how often, where and when they meet.

44. Calling Directors' meetings

- 44.1 A **Director** may call a **Directors'** meeting by giving reasonable notice to all of the other **Directors**.
- 44.2 A **Director** may give notice in writing or by any other means of communication that has previously been agreed to by all of the **Directors**.

45. Chairperson for Directors' meetings

- 45.1 The **Chairperson** is entitled to chair **Directors'** meetings.
- 45.2 The **Directors** at a **Directors'** meeting may choose a **Director** to be the **Chairperson** for that meeting if the **Chairperson** is:

CONSTITUTION OF NEW SOUTH WALES POLICE LEGACY LIMITED

- (a) not present within 30 minutes after the starting time set for the meeting, or
- (b) present but does not want to act as **Chairperson** of the meeting.

46. Quorum at Directors' meetings

- 46.1 Unless the **Directors** determine otherwise, the quorum for a **Directors'** meeting is a majority (more than 50%) of **Directors**.
- 46.2 A quorum must be present for the whole **Directors'** meeting.

47. Using technology to hold Directors' meetings

- 47.1 The **Directors** may hold their meetings by using any technology (such as video or teleconferencing) that is agreed to by all of the **Directors**.
- 47.2 The **Directors'** agreement may be a standing (ongoing) one.
- 47.3 A **Director** may only withdraw their consent within a reasonable period before the meeting.

48. Passing Directors' resolutions

A resolution must be passed by a majority of the votes cast by **Directors** present and entitled to vote on the resolution.

49. Circular resolutions of Directors

- 49.1 The **Directors** may pass a circular resolution without a **Directors'** meeting being held.
- 49.2 A circular resolution is passed if 75% of **Directors** entitled to vote on the resolution sign the resolution in the manner set out in clause
- 49.3 Each **Director** may sign (including electronically):
 - (a) a single document setting out the resolution and containing a statement that they agree to the resolution, or
 - (b) separate copies of that document, as long as the wording of the resolution is the same in each copy.
- 49.4 The **Company** may send a circular resolution by email to the **Directors** and the **Directors** may agree to the resolution by sending a reply email to that effect, including the text of the resolution in their reply.

- 49.5 A circular resolution is passed when the last **Director** signs or otherwise agrees to the resolution in the manner set out in clause 49.3 or clause 49.4.

Company secretary

50. Appointment and role of Company Secretary

- 50.1 The **Company** must have at least 1 **Company Secretary**.
- 50.2 A **Company Secretary** must be appointed by the **Directors** (after giving the **Company** their signed consent to act as **Company Secretary** of the **company**) and may be removed by the **Directors**.
- 50.3 The **Directors** must decide the terms and conditions under which the **Company Secretary** is appointed, including any remuneration.
- 50.4 The role of the **Company Secretary** includes maintaining the minutes and other records of **General Meetings** (including notices of meetings), **Directors'** meetings and circular resolutions.

Minutes and records

51. Minutes and records

- 51.1 The **Company** must, within 1 month, make and keep the following records:
- (a) minutes of proceedings and resolutions of **General Meetings**;
 - (b) minutes of circular resolutions of **Members**; and
 - (c) a copy of a notice of each **General Meeting**.
- 51.2 The **Company** must, within 1 month, make and keep the following records:
- (a) minutes of proceedings and resolutions of **Directors'** meetings (including meetings of any committees), and
 - (b) minutes of circular resolutions of **Directors**.
- 51.3 To allow **Members** to inspect the **Company's** records:
- (a) the **Company** must give a **Member** access to the records set out in clause 51.1 and 51.2.
- 51.4 The **Directors** must ensure that minutes of a **General Meeting** or a **Directors'** meeting are signed within a reasonable time after the meeting by:

CONSTITUTION OF NEW SOUTH WALES POLICE LEGACY LIMITED

- (a) the **Chairperson** of the meeting, or
- (b) the **Chairperson** of the next meeting.

51.5 The **Directors** must ensure that minutes of the passing of a circular resolution (of **Directors**) are signed by a **Director** within a reasonable time after the resolution is passed.

52. Financial and related records

52.1 The **Company** must make and 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.

52.2 The **Company** must also keep written records that correctly record its operations.

52.3 The **Company** must retain its records for at least 7 years.

52.4 The **Directors** must take reasonable steps to ensure that the **Company's** records are kept safe.

By-laws

53. By-laws

53.1 The **Directors** may pass a resolution to make by-laws to give effect to this constitution.

53.2 **Members** and **Directors** must comply with by-laws as if they were part of this constitution.

Notice

54. What is notice

54.1 Anything written to or from the **Company** under any clause in this constitution is written notice and is subject to clauses 55 to 57, unless specified otherwise.

55. Notice to the Company

Written notice or any communication under this constitution may be given to the **Company**, the Directors or the Company Secretary by:

CONSTITUTION OF NEW SOUTH WALES POLICE LEGACY LIMITED

- (a) delivering it to the **Company's** registered office;
- (b) posting it to the **Company's** registered office or to another address chosen by the **Company** for notice to be provided;
- (c) sending it to an email address or other electronic address notified by the **Company** to the **Members** at the **Company's** email address or other electronic address.

56. Notice to members

56.1 Written notice or any communication under this constitution may be given to a **Member**:

- (a) in person;
- (b) by posting it to, or leaving it at the address of the **Member** in the register of **Members** or an alternative address (if any) nominated by the **Member** for service of notices;
- (c) sending it to the email or other electronic address nominated by the **Member** as an alternative address for service of notices (if any);
- (d) if agreed to by the **Member**, by notifying the **Member** at an email or other electronic address nominated by the **Member**, that the notice is available at a specified place or address (including an electronic address); or

57. When notice is taken to be given

A notice:

- (a) delivered in person, or left at a the recipient's address, is taken to be given on the day it is delivered;
- (b) sent by post, is taken to be given on the 3rd day after it is posted with the correct payment of postage costs;
- (c) sent by email, fax or other electronic method, is taken to be given on the business day after it is sent, and
- (d) given under clause 56.1(d) is taken to be given on the business day after the notification that the notice is available is sent.

Financial year

58. Company's financial year

The **Company's** financial year is from 1 January to 31 December, unless the **Directors** pass a resolution to change the financial year.

Indemnity, insurance and access

59. Indemnity

59.1 The **Company** indemnifies each officer of the **Company** out of the assets of the **Company**, to the relevant extent, against all losses and liabilities (including costs, expenses and charges) incurred by that person as an officer of the **Company**.

59.2 In this clause, 'officer' means a **Director** or **Company Secretary** and includes a **Director** or **Company Secretary** after they have ceased to hold that office.

59.3 In this clause, 'to the relevant extent' means:

- (a) to the extent that the **Company** is not precluded by law (including the **Corporations Act**) from doing so, and
- (b) for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including an insurer under an insurance policy).

59.4 The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer of the **Company**.

60. Insurance

To the extent permitted by law (including the **Corporations Act**), and if the **Directors** consider it appropriate, the **Company** may pay or agree to pay a premium for a contract insuring a person who is or has been an officer of the **Company** against any liability incurred by the person as an officer of the **Company**.

61. Directors' access to documents

61.1 A **Director** has a right of access to the financial records of the **Company** at all reasonable times.

61.2 If the **Directors** agree, the **Company** must give a **Director** or former **Director** access to:

- (a) certain documents, including documents provided for or available to the directors, and
- (b) any other documents referred to in those documents.

Winding up

62. Surplus assets not to be distributed to members

If the **Company** is wound up, any **Surplus Assets** must not be distributed to a **Member** or a former **Member** of the **Company**.

63. Distribution of surplus assets

- 63.1 Subject to the **Corporations Act** and any other applicable Act, and any court order, any **Surplus Assets** that remain after the **Company** is wound up must be distributed to one or more charities:
- (a) with charitable purpose(s) similar to, or inclusive of, the purpose(s) in clause 6 of this constitution, and
 - (b) which also prohibit the distribution of any **Surplus Assets** to its **Members** to at least the same extent as the **Company**.
- 63.2 The decision as to the charity or charities to be given the **Surplus Assets** must be made by a **Special Resolution** of **Members** at or before the time of winding up. If the **Members** do not make this decision, the **Company** may apply to the Supreme Court to make this decision.

64. Deductible Gift Recipient Clause

If the **Company** is wound up or its endorsement as a deductible gift recipient is revoked (whichever occurs first), any surplus of the following assets shall be transferred to another organisation with similar objects, which is charitable at law, to which income-tax-deductible gifts can be made:

- (a) gifts of money or property for the principal purpose of the organisation,
- (b) contributions made in relation to an eligible fundraising event held for the principal purpose of the organisation,
- (c) money received by the organisation because of such gifts and contributions.

Definitions and interpretation

65. Definitions

In this constitution:

"**ACNC Act**" means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth).

"**Aid**" includes assistance and benefits but does not include **Fundraising Facilitation Services**.

"**Board**" means the board of directors of the **Company**, as constituted from time to time.

"**Chairperson**" means a serving Police Officer elected by the **Board** to be the **Company's** chairperson.

"**Company**" means the New South Wales Police Legacy Limited.

"**Company Secretary**" means any person appointed to perform the duties of a secretary of the **Company** and includes an honorary secretary.

"**Constitution**" means this constitution, as amended from time to time.

"**Corporations Act**" means the *Corporations Act 2001* (Cth).

"**Director**" means a director for the time being of the Company.

"**Eligible Applicant**" means a beneficiary as that term is defined in the NSW Police Legacy Beneficiary Policy, as amended from time to time.

"**Family Member**" in respect of a person means:

- (i) his or her spouse and children;
- (ii) if there is no spouse or children, the next of kin; and
- (iii) any other person who was financially or otherwise significantly dependent upon him or her.

"**Fundraising Beneficiary**" means, in relation to **Fundraising Facilitation Services**:

- (i) a person for whom fundraising activities have been proposed to be conducted by members of the public and who has been found by the **Board**, in its absolute discretion:
 - (a) to have, or have previously had, a connection with, relation to, or association with the **NSW Police Force**, whether personally or indirectly; and
 - (b) has suffered, whether personally or indirectly, serious illness and or serious misfortune; and
- (ii) is a **Family Member** of any person in sub-clause (i).

"**Fundraising Facilitation Services**" means the provision or facilitation of fundraising to provide assistance and benefits to any **Fundraising Beneficiary**;

"**General meeting**" means a meeting of **Members** and includes the annual **General Meeting**.

"**Honorary Treasurer**" means a person elected by the Board to be the **Company's** honorary treasurer;

"**Law**" means the *Corporations Act 2001*(Cth) including any amendment or re-enactment thereof for the time being in force.

"**Member**" means any person eligible to be a member of the **Company** in accordance with Clause 12.1 of this constitution.

"**Member Present**" means, in connection with a **General Meeting**, a **Member Present** in person, by representative or by proxy (where acceptable) at the venue or venues for the meeting.

"**NSW Police Force**" means the New South Wales Police Force.

"**Register**" means the register of the **Board** kept by the **Company** as required by **Law** and this constitution.

"**Registered charity**" means a charity that is registered under the **ACNC Act**.

"**Special resolution**" means a resolution:

- (i) of which notice has been given in accordance with clause 18.5(c) of the constitution, and
- (ii) that has been passed by at least 75% of the votes cast by **Members Present** and entitled to vote on the resolution.

"**Surplus assets**" means any assets of the **Company** that remain after paying all debts and other liabilities of the **Company**, including the costs of winding up.

"**Vice-Chairperson**" means a serving or former **Police Officer** elected by the **Board** to be the **Company's Vice-chairperson**.

66. Reading this constitution with the Corporations Act

- 66.1 The replaceable rules set out in the **Corporations Act** do not apply to the **Company**.
- 66.2 While the **Company** is a **Registered Charity**, the **ACNC Act** and the **Corporations Act** override any clauses in this constitution which are inconsistent with those Acts.
- 66.3 If the **Company** is not a **Registered Charity** (even if it remains a charity), the **Corporations Act** overrides any clause in this constitution which is inconsistent with that Act.

CONSTITUTION OF NEW SOUTH WALES POLICE LEGACY LIMITED

66.4 A word or expression that is defined in the **Corporations Act**, or used in that Act and covering the same subject, has the same meaning as in this constitution.

67. Interpretation

In this constitution:

- (a) the words 'including', 'for example', or similar expressions mean that there may be more inclusions or examples than those mentioned after that expression, and
- (b) reference to an Act includes every amendment, re-enactment, or replacement of that Act and any subordinate legislation made under that Act (such as regulations).