

**CONSTITUTION OF
GOSFORD BUSINESS IMPROVEMENT DISTRICT
ASSOCIATION INCORPORATED**

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INCORPORATED**

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**CONSTITUTION OF
GOSFORD CITY CENTRE BUSINESS IMPROVEMENT DISTRICT ASSOCIATION
INCORPORATED**

PART I – PRELIMINARY

1. INTERPRETATION

1.1 In this constitution, unless the context indicates otherwise:

"**Act**" means the Associations Incorporation Act 2009,

"**Annual Financial Statement**" means the Annual Financial Statement for the Association to be approved by the Members,

"**Annual General Meeting**" has the meaning given to it in Clause 25;

"**Associate Member**" means a member of the Association admitted pursuant to Clause 7.4;

"**Association**" means the Gosford City Centre Business Improvement District Association Incorporated;

"**Business Day**" means a day on which registered banks are open for business in Gosford, but does not include Saturdays, Sundays and public holidays;

"**Business Improvement District Manager**" means a person employed or appointed by the Association to undertake the role of administering and co-ordinating the Business Improvement District Programme on behalf of the Association in either a paid or unpaid capacity;

"**Business Improvement District Funding Grant**" means any grant received from the Council for the purposes of the Business Improvement District Programme;

"**Business Improvement District Programme**" means the programme involving the Council and the community of Gosford City Centre to organise, design, promote, improve and develop the commercial area;

"**Chairperson**" means the chairperson of the Association referred to in Clause 16;

"**Council**" means the Gosford City Council;

"**Director-General**" means the Director-General of the Department of Services, Technology and Administration.

"**Executive Committee**" means the committee of the Association referred to in Clause 15;

"**Full Member**" means a member of the Association in terms of Clause 7.1 and 7.2;

"**General Meetings**" means the Annual General Meeting and Special General Meetings of the Association;

"**Members**" means the members of the Association from time to time including Associate Members and Full Members;

"**Officers**" means the Chairperson, Secretary and Treasurer of the Association referred to in Clauses 18 and 19;

"**Secretary**" means the Secretary of the Association referred to in Clause 18;

"**Special General Meeting**" has the meaning given to it in Clause 27;

"**Special Resolution**" has the meaning given to it in Clause 33;

"**Special Subscription**" has the meaning given to it in Clause 7.5;

"**the Act**" means the Associations Incorporation Act 2009.

"**the Regulation**" means the Associations Incorporation Regulation 2010.

"**Treasurer**" means the Treasurer of the Association referred to in Clause 19.

References to Persons: references in these Rules to persons include references to individuals, companies, corporations, partnerships, firms, joint ventures, associations, trusts, organisations or other entities.

2 In this constitution:

- a) a reference to a function includes a reference to a power, authority and duty, and
- b) a reference to the exercise of a function includes, if the function is a duty, a reference to the performance of the duty.

3 The provisions of the Interpretation Act 1987 apply to and in respect of this constitution in the same manner as those provisions would so apply if this constitution were an instrument made under the Act.

4. NAME

4.1 The name of the Association is Gosford Business Improvement District Association Incorporated.

5. OBJECTS

5.1. The goals of the Association are:

- (a) to make Gosford a safe, clean, commercially vibrant, attractive city
- (b) to help and encourage Gosford to live up to its name as the capital of the Central Coast

5.2 The objects of the Association are:

- (a) to promote the development and advancement of the commercial interests of businesses in the Gosford City Centre through a co-ordinated and structured promotion, advocacy and planning programme;
- (b) to foster the welfare and economic development of Gosford City Centre;
- (c) to enhance safety and security and to attract and retain businesses to drive employment growth and economic, social, cultural and environment wellbeing;
- (d) to make arrangements with the Government, the Council and/or other persons, corporations, associations or local authorities for the improvement of streets, reserves, playing areas and park areas, and for lighting, surfacing, and cleaning in the Gosford City Centre;
- (e) for the purposes and objects stated in this constitution, to administer the Gosford CBD Improvement Special Rate Levy; and any other funding or grants received;
- (f) to do all things as are, or may be incidental to, or conducive to, the attainment of these objects.

PART II – POWERS

6. SCOPE OF THE ASSOCIATION'S POWERS

6.1 The Association has the widest possible powers to do all things which may be necessary to pursue the Association's goals and objects including (but not limited to) the following powers:

- (a) to purchase, take on, lease, exchange, hire, or otherwise acquire any real or personal property, and to sell, mortgage, dispose of or otherwise deal with any real or personal property of the Association and any rights or privileges which the Association thinks necessary or expedient for the purposes of attaining the objects of the Association or promoting the interests of the Association, its Members or any other persons;
- (b) to use the funds of the Association as the Association may consider necessary or proper to:
 - (i) pay the costs and expenses of the Association; and
 - (ii) further the objects of the Association; including the employment of solicitors, agents, officers and servants as necessary or expedient;
- (c) to engage in prosecuting, defending or otherwise taking any legal action or legal proceedings on behalf of the Association and for that purpose, to expend such moneys and employ such solicitors, counsel and other advisors as the Association may think fit;
- (d) to apply for and acquire any licences or permits deemed necessary by the Association;
- (e) to open and operate bank accounts of whatever nature or description subject to such conditions as the Association thinks fit;

- (f) to assist any charity or charitable purpose by such financial or other means as the Association thinks fit;
- (g) to borrow or raise money by any means and upon such conditions as the Association thinks fit;
- (h) to employ staff and nominate contractors for such purposes and for such periods and subject to such conditions as the Association thinks fit;
- (j) **PROVIDED THAT** the Association shall not lend money at less than current commercial rates, having regard to the nature and term of the loan, to any person:
 - (i) who is a Member of the Association; or
 - (ii) who is a shareholder or director of any company by which any business of the Association is carried on; or
 - (iii) who is a settlor or trustee of a trust that is a shareholder of any company by which any business of the Association is to be carried on.

PART III – ASSOCIATION MEMBERSHIP

7. MEMBERSHIP QUALIFICATIONS

7.1 There shall be Full Members of the Association. A person (or their nominee) shall be entitled to be a Full Member of the Association if the person:

- (a) owns one or more commercially rated properties within the Gosford City Centre and pays the CBD Improvement Special Rate Levy; or
- (b) occupies or is the tenant of one or more premises on a commercially rated property within the Special Rate area and who operates a business from these premises; and
- (c) has not previously been expelled from the Association.

7.2 Any person entitled to be a Full Member and who wishes to become a member shall provide details of their name, address, occupation or business within the Gosford CBD Improvement Special Rate Levy area to the Secretary.

7.3 Any person who ceases to be entitled to be a Full Member of the Association shall immediately provide notice of that fact, and of the date their entitlement ceased, to the Secretary.

7.4 There may be Associate Members of the Association. A person who does not qualify to be a Full Member may become an Associate Member by applying to the Secretary. The Secretary shall advise the Executive Committee of the application and the Executive Committee shall determine at its next scheduled meeting whether the applicant shall be admitted.

7.5 An Associate Member shall, pay a Special Subscription for membership up to two years, of such amount as is determined by the Executive Committee from time to time.

7.6 Each Member which is not an individual shall designate an individual representative to act on its behalf in all matters relating to the Association, and shall notify the Secretary of that representative's name and address.

7.7 The rights of the Members of the Association shall be as follows.

- (a) each Full Member shall be entitled to one vote at General Meetings;
- (b) each Full or Associate member shall be entitled to attend all General Meetings, but an Associate Member shall not be entitled to vote;
- (c) each member shall be entitled to stand for election to the Executive Committee

8. TERMINATION OF MEMBERSHIP

8.1 A person ceases to be a Member of the Association if the person:

- (a) dies, becomes bankrupt or, being a company or other incorporated body is liquidated or removed from the relevant statutory register; or
- (b) resigns that membership by notice in writing to the Association; or
- (c) is expelled from the Association; or
- (d) ceases to be entitled to be a Full Member in terms of Clause 7.1, and has not been admitted as an Associate Member.

9. REGISTER OF MEMBERS

9.1 The Secretary shall establish and maintain a register of Members specifying the name, address and occupation or business of each person who is a Member, together with the date on which the person became a Member, whether that person is a Full or Associate Member and, in the case of members which are not individuals, the name and address of that Member's individual representative.

9.2 Each Member shall advise the Secretary if there is any change to any of the information in the register relating to that Member.

9.3 The register of Members shall be kept at the principal place of administration of the Association and shall be open for inspection, free of charge, by any Member of the Association at any reasonable hour.

10. FEES AND SUBSCRIPTIONS

10.1 The Association may levy its Members such subscription charge deemed by the Executive Committee necessary to properly carry out its objects.

10.2 Any Member ceasing to be a member of the Association pursuant to Clause 8 shall not be entitled to any refund of any subscription, charge or CBD Special Rate Levy paid or payable by that Member prior to his, her or its termination and such Member shall continue to remain liable to pay the CBD Improvement Special Rate Levy despite ceasing to be a Member.

11. MEMBER'S LIABILITIES

11.1 The liability of a Member of the Association to contribute towards the payment of the debts and liabilities of the Association or the costs, charges and expenses of the winding up of the Association is limited to the amount, if any, unpaid by the Member in respect of membership of the Association as required by Clause 7.5 and Clause 10. In the event any Member ceases to be a Member of the Association pursuant to Clause 8 such Member shall not be released from any liability to the Association for any matters arising prior to the end of the financial year in which the Member ceased to be a Member.

12. DISCIPLINING OF MEMBERS

12.1 Where the Executive Committee is reasonably of the opinion that a Member of the Association:

- (a) has persistently refused or neglected to comply with a provision or provisions of these Rules; or
- (b) has persistently and wilfully acted in a manner prejudicial to the interests of the Association; or
- (c) has failed to pay any subscription or charge payable under Clause 10 or any Special Subscription payable under Clause 7.5 or otherwise failed to make any payment due under these Rules and such failure continues for a period of three calendar months after it is due; or
- (d) does anything which, in the opinion of the Executive Committee in its absolute discretion is likely to seriously harm the reputation of the Association or the objects of the Association in general;
- (e) the Executive Committee may by resolution:
- (f) remove that Member's entitlement to vote at any General Meeting until such time as payment is made in full; or
- (g) expel the Member of the Association; or
- (h) suspend the Member from membership of the Association for a specified
- (i) Period.

12.2 A resolution of the Executive Committee under Clause 12.1 is of no effect unless the Executive Committee confirms the resolution at a meeting held not earlier than fourteen days and not later than twenty eight days after service on the Member of a notice under Clause 12.3.

12.3 Where the Executive Committee passes a resolution under Clause 12.1, the Secretary shall, as soon as practicable, cause a notice in writing to be served on the Member:

- (a) setting out the resolution of the Executive Committee and the grounds on which it is based;

- (b) stating that the Member may address the Executive Committee at a meeting to be held not earlier than fourteen days and not later than twenty-eight days after service of the notice;
- (c) stating the date, place and time of that meeting; and
- (d) informing the Member that the Member may do either or both of the following:
 - (i) attend and speak at that meeting;
 - (ii) submit to the Committee at or prior to the date of that meeting written representations relating to the resolution.

12.4 At a meeting of the Executive Committee held in accordance with Clause 12.3, the Executive Committee shall:

- (a) give the Member an opportunity to make oral representations;
- (b) give due consideration to any written representations submitted to the Committee by the Member at or prior to the meeting; and
- (c) by resolution determine whether to confirm or to revoke the resolution.

13. RESOLUTION OF DISPUTES

13.1 Where a dispute between members (in their capacity as members) of the Association cannot be resolved by the Executive Committee or where the dispute is within the Executive Committee, it will be referred to a community justice centre for mediation in accordance with the Community Justice Centres Act 1983.

13.2 At least seven days before a mediation session is to commence, the parties are to exchange statements of the issues that are in dispute between them and supply a copy to the mediator.

13.3 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.

13.4 The *Commercial Arbitration Act 1984* applies to any such dispute referred to arbitration.

14. MEMBER DEALINGS WITH AND INTERESTS IN THE ASSOCIATION

14.1 Any Member who is or may be interested or concerned directly or indirectly in any property or undertaking in which the Association is or may be in any way concerned or involved:

- (a) must disclose the nature and extent of that Member's interest to the other Members; and
- (b) must not take any part whatever in any deliberation concerning any matter in which that Member is or may be interested other than as a Member of the Association.

14.2 No private pecuniary profit shall be made by any person from the Association except that:

- (a) any Member may receive full reimbursement for all expenses properly incurred by that Member in connection with the affairs of the Association;
- (b) the Association may pay reasonable remuneration to any officer or servant of the Association (whether a Member or not) in return for services actually rendered to the Association;
- (c) any Member may be paid all usual professional, business or trade charges for services rendered, time expended and all acts done by the Member, or by any firm or entity of which that Member is a member, employee or associate in connection with the affairs of the Association;
- (d) any Member may retain any remuneration properly payable to that Member by any company or undertaking with which the Association may be in any way concerned or involved for which that Member has acted in any capacity whatever, notwithstanding that the Member's connection with that company or undertaking is in any way attributable to that Member's connection with the Association.

14.3 Notwithstanding anything contained or implied in these Rules any person who is:

- (a) a Member of the Association; or
- (b) a shareholder or director of any company carrying on any business of the Association; or
- (c) a shareholder or director of any company which is a Member of the Association; or
- (d) a member of any association which is a shareholder or any company carrying on any business of the Association; or
- (e) an associated person of any such Member, shareholder or director;

shall not by virtue of that capacity in any way (whether directly or indirectly) determine, or materially influence the determination of the nature or the amount of any benefit or advantage or income or the circumstances in which it is or is to be received, gained, achieved, afforded or derived by that person.

PART IV – EXECUTIVE COMMITTEE

15. EXECUTIVE COMMITTEE

15.1 The Association shall be governed by an Executive Committee which:

- (a) shall control and manage the affairs of the Association including the day to day management of the Business Improvement District Programme;
- (b) may exercise all such functions as may be exercised by a General Meeting of Members of the Association;

(c) shall fix the amount of subscription which may be in several parts or categories and shall be made on Members or classes of Members for special purposes;

(d) has power to perform all such acts and do all such things as appear to the Executive Committee to be necessary or desirable for the proper management of the affairs of the Association;

15.2 The Executive Committee shall be responsible for accounting for the Business Improvement District Funding Grant.

16. MEMBERSHIP OF EXECUTIVE COMMITTEE

16.1 The Executive Committee shall, subject to Clause 16.2, have a maximum of twelve members and shall consist of:

(a) the Chairperson;

(b) the Vice Chairperson;

(c) the Public Officer, who shall be responsible for the fulfilment of the duties of Treasurer and Secretary; which tasks may be delegated to the manager of the Association;

(d) a Gosford City Councillor (or Council nominee), and;

(e) not more than an additional eight persons who are Members of the Association, and who have been elected at the Annual General Meeting of the Association pursuant to Clause 17.

16.2 The Executive Committee shall consist of up to four property owners (or nominees), four business owners or operators (or nominees), one representative of a community organisation which operates in the Gosford City Centre, one resident who resides in the Gosford City Centre, one representative of the Gosford Chamber of Commerce and one Councillor (or Council nominee).

16.3 Each member of the Executive Committee, excluding the Councillor, shall, subject to these Rules, hold office until the conclusion of the Annual General Meeting following the date of the member's election, but is eligible for re-election.

16.4 In the event of a casual vacancy occurring in the membership of the Executive Committee, the Executive Committee may appoint a Member of the Association to fill the vacancy. Any member so appointed shall hold office, subject to these Rules, until the conclusion of the next Annual General Meeting following the date of the appointment.

16.5 The Executive Committee shall, at its first meeting following an Annual General Meeting, elect from amongst the members of the Executive Committee, a Chairperson, Vice Chairperson and Public Officer.

16.6 The Executive Committee may invite attendance at its meetings by others for specific purposes, but they shall not be entitled to vote.

17. ELECTION OF MEMBERS TO EXECUTIVE COMMITTEE

17.1 Members of the Executive Committee shall be elected by Members of the Association at the Annual General Meeting.

17.2 Nominations of candidates for election to the Executive Committee:

(a) shall be made in writing, signed by two Full Members of the Association and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination); and

(b) shall be delivered to the Secretary of the Association not less than one day before the date fixed for the holding of the Annual General Meeting at which the election is to take place.

17.3 If insufficient nominations are received to fill all positions, the candidates nominated shall be deemed to be elected and further nominations shall be received at the Annual General Meeting.

17.4 If insufficient further nominations are received, any vacant positions remaining shall be deemed to be casual vacancies.

17.5 If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated shall be deemed to be elected.

17.6 If the number of nominations received exceeds the number of vacancies to be filled a ballot shall be held.

17.7 Any such ballot shall be conducted at the Annual General Meeting in such usual and proper manner as the Executive Committee may direct.

18. CHAIRPERSON AND SECRETARY

18.1 The Chairperson shall be elected to that position in accordance with Clause 16. In the absence of the Chairperson and Vice Chairperson, Executive Committee Members present shall be entitled to elect a chairperson for the meeting.

18.2 It is the duty of the Secretary to keep minutes of:

(a) all elections of members of the Executive Committee;

(b) the names of members of the Executive Committee present at each Executive Committee meeting and General Meeting; and

(c) all proceedings at Executive Committee meetings and General Meetings

18.3 Minutes of proceedings at a meeting shall be signed by the Chairperson of the meeting or by the Chairperson of the next succeeding meeting.

19. TREASURER

19.1 The Treasurer shall be elected to that position in accordance with Clause 16.

19.2 It is the duty of the Treasurer to ensure that:

- (a) all money due to the Association is collected and received and all payments authorised by the Association are made;
- (b) correct books and accounts are kept showing the financial affairs of the Association including full details of all receipts and expenditure connected with the activities of the Association.

20. AUDITOR

20.1 An Auditor may be appointed by the Association on an annual basis to carry out the functions set out in this Rule, and must be appointed if directed to do so by the Council.

20.2 No person who is an Officer or a Member may be appointed as Auditor.

20.3 The remuneration of the Auditor shall be fixed by the Association.

20.4 If any casual vacancy occurs in the office of any Auditor appointed by the Association, the Executive Committee shall appoint an Auditor to carry on the duties of the Auditor until the next Annual General Meeting.

20.5 The Auditor shall provide the Members with a report regarding the accounts and statements. The report shall be read together with the report of the Executive Committee at the Annual General Meeting.

21. CASUAL VACANCIES

21.1 For the purposes of this Constitution, a casual vacancy in the office of a member of the Executive Committee occurs if the member:

- (a) dies;
- (b) ceases to be a Member of the Association;
- (c) becomes an insolvent under administration within the meaning of the Corporations Act 2001 of the Commonwealth, or
- (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 the consent of the committee from 3 consecutive meetings of the committee, or
- (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.

22. REMOVAL OF MEMBER

22.1 The Association in a General Meeting may, by resolution, remove any member of the Executive Committee from office before the expiration of the member's term of office.

22.2 Where a member of the Executive Committee to whom a proposed resolution referred to in Clause 22.1 relates:

- (a) makes representations in writing to the Chairperson or Secretary; and
- (b) requests that the representations be notified to the Members of the Association;

then the Chairperson or Secretary may send a copy of the representations to each Member of the Association. If they 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.

23. MEETINGS OF EXECUTIVE COMMITTEE AND QUORUM

23.1 The Executive Committee shall endeavour to meet not less than once each three months in each financial year, and at such time and place as shall be decided by the Executive Committee.

23.2 Additional meetings of the Executive Committee may be convened by the Chairperson or by any member of the Executive Committee through the Chairman as deemed appropriate.

23.3 Oral or written notice of a meeting of the Executive Committee shall be given by the Secretary to each member of the Executive Committee at least 48 hours (or such other period as may be unanimously agreed upon by the members of the Executive Committee) before the time appointed for the holding of the meeting.

23.4 Notice of a meeting given under subclause (3) must specify the general nature of the business to be transacted at the meeting and no business other than that business is to be transacted at the meeting, except business which the committee members present at the meeting unanimously agree to treat as urgent business.

23.5 Any five members or at least 50 per cent of the positions filled on the Executive Committee constitute a quorum for the transaction of business of a meeting. A quorum may be achieved by teleconference or video conference where required. .

23.6 No business shall be transacted by the Executive Committee unless a quorum is present within half an hour of the time appointed for the meeting.

23.7 Questions arising at a meeting of the Executive Committee or of any sub-committee appointed by the Executive Committee shall be determined by a majority of the votes of members of that committee present at the meeting and entitled to vote.

23.8 At a meeting of the Executive Committee:

- (a) the Chairperson or, in the Chairperson's or Vice Chairperson's absence, any member of the Executive Committee nominated to stand in his/her place shall preside; and
- (b) the Chairperson or such other person shall have, in the case of a tie in votes, a casting vote.

24 DELEGATION BY COMMITTEE TO SUB-COMMITTEE

24.1 The committee may, by instrument in writing, delegate to one or more sub-committees (consisting of such member or 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:

(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.

24.2 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.

24.3 A delegation under this clause may be made subject to such conditions or limitations as to the exercise of any function, or as to time or circumstances, as may be specified in the instrument of delegation.

24.4 Despite any delegation under this clause, the committee may continue to exercise any function delegated.

24.5 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.

24.6 The committee may, by instrument in writing, revoke wholly or in part any delegation under this clause.

24.7 A sub-committee may meet and adjourn as it thinks proper.

PART V – GENERAL MEETINGS

25. ANNUAL GENERAL MEETINGS

25.1 The association shall hold its annual general meetings:

(a) within 6 months after the close of the association's financial year, or

(b) within such later time as may be allowed by the Director-General or prescribed by the Regulation.

26. ANNUAL GENERAL MEETINGS - CALLING OF AND BUSINESS AT

26.1 The annual general meeting of the association is, subject to the Act and to clause 25, to be convened on such date and at such place and time as the Executive Committee thinks fit.

26.2 In addition to any other business which may be transacted at an AGM, the business of an AGM shall be:

- (a) to confirm the Minutes of the last preceding AGM and of any Special General Meeting held since that meeting;
- (b) to receive from the Executive Committee reports on the activities of the Association during the preceding financial year;
- (c) to receive and consider any financial statement or report required to be submitted to members under the Act.
- (d) to elect the members of the Executive Committee.

26.3 An annual general meeting shall be specified as such in the notice convening it.

26.4 The Association's financial year shall end on 30 June.

27. SPECIAL GENERAL MEETINGS

27.1 The Executive Committee may, whenever it thinks fit, convene a Special General Meeting of the Association.

27.2 The Executive Committee shall, on the requisition in writing of not less than five percent of the total number of Members, convene a special meeting of the Association.

27.3 A requisition of Members for a Special General Meeting:

- (a) shall state the purpose or purposes of the meeting;
- (b) shall be signed by the Members making the requisition;
- (c) shall be lodged with the Secretary; and

(d) may consist of several documents in a similar form, each signed by one or more of the members making the requisition.

27.4 If the Executive Committee fails to convene a Special General Meeting to be held within one month after the date on which a requisition of Members for the meeting is lodged with the Secretary, any one or more of the Members who made the requisition may convene a Special General Meeting to be held not later than three months after that date.

27.5 A Special General Meeting convened by a Member or Members as referred to in Clause 27.4 shall be deemed to have been convened by the Executive Committee. Any Member who incurs expense as a result of the Special General Meeting is entitled to be reimbursed by the Association for any expenses so incurred.

27.6 A special general meeting convened by a member or members as referred to in subclause (5) must be convened as nearly as is practicable in the same manner as general meetings are convened by the committee.

27.7 The business to be conducted at a Special General Meeting shall be the only business for which the Special General Meeting in question was convened, provided that it is business which can properly be dealt with by Members in General Meeting.

28. NOTICE

28.1 Except where the nature of the business proposed to be dealt with at a General Meeting requires a Special Resolution of the Association, the Secretary shall, at least 14 days before the date fixed for the holding of the General Meeting, cause to be sent by prepaid post to each Member at the Member's address appearing in the register of Members, a notice specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.

28.2 Where the nature of the business proposed to be dealt with at a General Meeting requires a Special Resolution of the Association the Secretary shall, at least 21 days before the date fixed for the holding of the General Meeting, cause notice to be sent to each Member of the Association specifying the intention to pass such a resolution as a Special Resolution.

28.3 No business other than that specified in the notice convening a General Meeting shall be transacted at a meeting except, in the case of an Annual General Meeting, present business which may be transacted pursuant to Clause 26.

28.4 A Member desiring to bring any business before a General Meeting may give notice in writing of that business to the Secretary who shall include that business in the next notice calling a General Meeting given after receipt of the notice from the Member.

29. QUORUM FOR GENERAL MEETINGS

29.1 No item of business shall be transacted at a General Meeting unless a quorum of Members entitled under this constitution to vote is present during the time the meeting is considering that item.

29.2 Seven Full Members present (being members entitled under this constitution to vote at a general meeting) constitute a quorum for the transaction of the business of a General Meeting.

29.3 If, within half an hour after the appointed time for the commencement of a General Meeting, a quorum is not present, the meeting:

- (a) if convened on the requisition of members, is to be dissolved, and
- (b) in any other case, shall stand adjourned to the same day in the following week at the time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to Members given before the day to which the meeting is adjourned) at the same place.

29.4 If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the Members present (being not less than five Full Members) shall constitute a quorum.

30. ADJOURNMENT

The chairperson of a general meeting at which a quorum is present may, with the consent of the majority of members present at the meeting, adjourn the meeting from time to time and place to place, but no business is to be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.

(2) If a general meeting is adjourned for 14 days or more, the secretary shall 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.

(3) Except as provided in subclauses (1) and (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.

31. PRESIDING MEMBER

31.1 The Chairperson, or in the Chairperson's absence, the Vice Chairperson, shall preside at each General Meeting of the Association.

31.2 If the Chairperson and the Vice Chairperson are absent from a General Meeting or unable or unwilling to act, the Members present shall elect one of their number to preside as Chairperson at the meeting.

32. MAKING OF DECISIONS

32.1 A question arising at a general meeting of the association is to be determined by either:

(a) a show of hands, or

(b) if on the motion of the chairperson or if 5 or more members present at the meeting decide that the question should be determined by a written ballot—a written ballot.

32.2 If the question is to be determined by a show of hands, a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the association, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.

32.3 If the question is to be determined by a written ballot, the ballot is to be conducted in accordance with the directions of the chairperson

33. SPECIAL RESOLUTIONS

A special resolution may only be passed by the association in accordance with section 39 of the Act

34. VOTING

34.1 On any question arising at a general meeting of the association a member has one vote only.

34.2 In the case of an equality of votes on a question at a general meeting, the chairperson of the meeting is entitled to exercise a second or casting vote.

34.3 A member is not entitled to vote at any general meeting of the association unless all money due and payable by the member to the association has been paid.

34.4 A member is not entitled to vote at any general meeting of the association if the member is under 18 years of age.

35. Proxy votes not permitted

Proxy voting shall not be undertaken at or in respect of a general meeting.

36. Postal ballots

36.1 The association may hold a postal ballot to determine any issue or proposal (other than an appeal under clause 12).

36.2 A postal ballot is to be conducted in accordance with Schedule 3 to the Regulation (attached in Annexure 1)

PART VI – MISCELLANEOUS

37. INSURANCE

37.1 The Association shall effect and maintain insurance.

38. FUNDS - SOURCE

38.1 The Association shall be allocated the funds raised by the Gosford CBD Improvement Special Rate Levy that is collected and administered by Gosford City Council.

38.2 The Association shall raise nominal income from Members of the Association.

38.3 The Association may raise funds from other levels of Government, corporations, enterprises and individuals for specific projects and activities.

39. FUNDS – MANAGEMENT

39.1 Subject to any resolution passed by the Association in General Meeting, the funds of the Association shall be used to pursue the objects of the Association in such manner as the Executive Committee determines.

39.2 All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments shall be signed by any two members of the Executive Committee or employees of the Association, being Members or employees authorised to do so by the Executive Committee.

39.3 All funds received by the Association remain the property of the Association. The property of the Association is irrevocably dedicated to objects stated in this constitution. No part of the net income or assets of the Association shall ever inure to the benefit of any director, officer or Member of the Association or to the benefit of any private persons.

40. CHANGE OF NAME, OBJECTS AND CONSTITUTION

40.1 An application to the Director-General for registration of a change in the association's name, objects or constitution in accordance with section 10 of the Act is to be made by the public officer or a committee member.

40.2 Neither the constitution of the Association affecting the Business Improvement District Programme, the Gosford CBD Improvement Special Rate Levy or the Council's representation on the Executive Committee, shall be altered without the prior written approval of the Council.

41. CUSTODY OF BOOKS

41.1 Except as otherwise provided by this constitution, the Secretary shall keep in his or her custody or under his or her control all records, books and other documents relating to the Association.

42 INSPECTION OF BOOKS ETC

42.1 The following documents must be open to inspection, free of charge, by a member of the association at any reasonable hour:

- (a) records, books and other financial documents of the association,
- (b) this constitution,
- (c) minutes of all committee meetings and general meetings of the association.

42.2 A member of the association may obtain a copy of any of the documents referred to in subclause (1) on payment of a fee of not more than \$1 for each page copied.

43. SERVICE OF NOTICES

43.1 For the purpose of this constitution, a notice may be served on or given to a person:

- (a) by delivering it to the person personally, or
- (b) by sending it by pre-paid post to the address of the person, or
- (c) by sending it by facsimile transmission or some other form of electronic transmission to an address specified by the person for giving or serving the notice.

43.2 For the purpose of this constitution, a notice is taken, unless the contrary is proved, to have been given or served:

- (a) in the case of a notice given or served personally, on the date on which it is received by the addressee, and
- (b) in the case of a notice sent by pre-paid post, on the date when it would have been delivered in the ordinary course of post, and
- (c) in the case of a notice sent by facsimile transmission or some other form of electronic transmission, on the date it was sent or, if the machine from which the transmission was sent produces a report indicating that the notice was sent on a later date, on that date.

44. SURPLUS PROPERTY

44.1 In the event of the winding up or the cancellation of the incorporation of the Association, Council will determine the Incorporated Association or body that surplus property is to be vested in pursuant of Section 53 of the Act.

APPENDIX 1



Application for membership

I,
(full name)

of
(company / business name)

located at
(street address of business/premises)

being the owner of that property/ an operator of a business at that address *(delete inapplicable)*

hereby apply to become a member of the Gosford Business Improvement District Association Inc,
and nominate as my/ the company's representative

.....
(full name of nominee)

In the advent of my admission as a member, I agree to be bound by the rules of the association for the time being in force. I acknowledge that the annual membership fee is \$10 which falls due on receipt of an invoice. An amount of \$20 may be payable for up to two years membership.

.....
signature of applicant

.....
date

contact details for nominee:

email address

phone number.....

postal address *(if different)*

Official use only

Certified that applicant is eligible to be a full member/associate member (*delete inapplicable*) of the Association in accordance with the rules of the Association.

.....
Signed

.....
Position

ANNEXURE 1

Schedule 3 Conduct of postal ballots

(Clause 12)

1 Ballots

- (1) The committee must:
 - (a) cause the details of the proposal on which the ballot is to be held to be set out in a statement, and
 - (b) fix the dates for:
 - (i) the forwarding of ballots to members, and
 - (ii) the closing of the ballot, and
 - (c) appoint a returning officer for the ballot.
- (2) Every ballot must be conducted by the returning officer appointed by the committee.

2 Returning officers

- (1) A committee member of the association may not be appointed as a returning officer.
- (2) The returning officer may be assisted in the performance of his or her duties by any person (who would be eligible to be a returning officer) appointed by the returning officer.

3 Preparation of voting roll and ballot papers

- (1) The returning officer must prepare a roll of the full names and addresses of the members of the association who are eligible to vote.
- (2) A person whose name is on the roll is entitled to vote in the ballot, and no person is otherwise so entitled.
- (3) The returning officer must cause ballot papers to be prepared:
 - (a) in or to the effect of Form A in this Schedule, or
 - (b) in such other form as the committee determines.
- (4) Each ballot paper must:
 - (a) be initialled by the returning officer or an appointed assistant, or
 - (b) bear a mark that identifies it as a genuine ballot paper.
- (5) The returning officer must, at least 14 days (or 21 days in the case of a special resolution) before the date fixed for the closing of the ballot, send by post or otherwise deliver to every member entitled to vote in the ballot one set of the following material:
 - (a) one ballot paper,
 - (b) an envelope (in this Schedule referred to as *the outer envelope*) addressed to the returning officer and the reverse side of which is noted or printed with the name and address of the member,
 - (c) a small envelope (in this Schedule referred to as *the inner envelope*) in which the ballot paper is to be enclosed,
 - (d) a copy of a statement prepared by the board setting out the terms of the resolution,
 - (e) in the case of a special resolution—a copy of a statement to the effect that the resolution is intended to be passed as a special resolution.

4 Duplicate ballot papers

- (1) The returning officer may send a duplicate ballot paper to any voter if the returning officer is satisfied:
 - (a) that the voter has not received a ballot paper, or
 - (b) that the ballot paper received by the voter has been lost, spoiled or destroyed and that the voter has not already voted.
- (2) If a duplicate ballot paper is sent, the relevant outer envelope is to be marked with the word “Duplicate”.

5 Voting

A member casts a vote in the ballot by:

- (a) marking his or her vote on the ballot paper according to the instructions on the ballot paper, and
- (b) sending the ballot paper, in the envelopes provided, to the returning officer.

6 Safe keeping of ballot papers

- (1) The returning officer must provide a ballot box that must be secured immediately before the ballot papers are delivered to members in accordance with clause 3 (5) and must remain secured until the close of the ballot.
- (2) The returning officer must place the outer envelopes in the ballot box not later than the time and date fixed on the ballot paper for the closing of the ballot.

7 Counting of the votes

- (1) As soon as practicable after the date fixed for the closing of the ballot, the returning officer must, in the presence of such scrutineers as may be appointed by the committee, open the ballot box and deal with the contents in accordance with subclause (3).
- (2) The returning officer must:
 - (a) examine the outer envelopes, and
 - (b) if a duplicate outer envelope has been issued and the original outer envelope is received, reject the original envelope and mark it “rejected”, and
 - (c) mark the voter’s name on the roll by drawing a line through the name, and
 - (d) remove the inner envelopes from the outer envelopes, and
 - (e) when all the inner envelopes have been dealt with in the above manner, open all unrejected inner envelopes and take the ballot papers from them.
- (3) The ballot papers must be scrutinised by the returning officer who must reject as informal any ballot paper that:
 - (a) is not duly initialled by the returning officer or appointed assistant or does not bear a mark that identifies it as a genuine ballot paper, or
 - (b) is so imperfectly marked that the intention of the voter cannot be ascertained by the returning officer, or
 - (c) has any mark or writing not authorised by this Schedule that, in the opinion of the returning officer, will enable the voter to be identified, or
 - (d) has not been marked as prescribed on the ballot paper itself.

8 Statement by returning officer

- (1) The returning officer must count all votes cast and make out and sign a statement of:
 - (a) the number of formal votes cast in favour of the proposal, and
 - (b) the number of formal votes cast against the proposal, and
 - (c) the number of informal votes cast, and
 - (d) the number of envelopes marked “rejected”, and
 - (e) the proportion of the formal votes cast in favour of the proposal.

- (2) On the declaration of the returning officer of the result of the postal ballot, the committee must cause an entry to be made in the minute book showing the particulars referred to in subclause (1) (a)–(e).
- (3) The returning officer must forward a copy of the statement to the chairperson of the committee who must announce the result of the ballot at the next general meeting.

9 Notification of result of ballot for special resolutions

In the case of a special resolution, the association must cause the result of the ballot to be notified in writing to its members as soon as practicable after the ballot.

10 Retention of ballot papers

- (1) The returning officer must retain:
 - (a) all ballot papers (whether formal or otherwise), and
 - (b) all rejected outer envelopes, and
 - (c) all rolls,
 - used in connection with the conduct of the postal ballot, locked in the ballot box, in accordance with this clause.
- (2) The returning officer must retain those items for a period of not less than 8 weeks after the date fixed for the closing of the ballot unless directed in writing by the committee to retain those items for a longer period.

Form A Postal ballot paper

Associations Incorporation Regulation 2010 (Schedule 3, clause 3 (3))

Note:

Before completing this ballot paper, please read the “How to vote” section below.

Name of Association:

Ballot of members to determine the following proposal:

.....

Do you support the above proposal? (Please write YES or NO in the box)

The ballot will close at [time] on [date].

How to vote

- 1 Read these directions and the ballot paper carefully.
- 2 If:
 - (a) you are in favour of the proposal—write the word “YES” in the box provided above, or
 - (b) you are not in favour of the proposal—write the word “NO” in the box provided above.
- 3 After marking the ballot paper, fold it and place it in the inner envelope provided and seal the envelope. Then place the inner envelope in the envelope addressed to the returning officer.
- 4 Forward this envelope either by post or personal delivery so as to reach the returning officer not later than the time and date set out above.
- 5 Unless the ballot paper is marked as indicated in 3 above and the details referred to in 2 above are completed in full, your vote may be rejected as informal.