



Constitution

Playgroup NSW Inc.

ABN 97 616 861 198

Under the *Associations Incorporation Act 2009 (NSW)*

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Part 1 - Preliminary

1 Definitions and interpretation

1.1 In this Constitution:

Act means the *Associations Incorporation Act 2009* (NSW).

Annual General Meeting means a General Meeting required to be held annually as provided in clause 33.

Appointed Board Member has the meaning set out in clause 19.1(b).

Association means [Association Name] being an incorporated association described in this Constitution and established under the Act with Registration number Y0300522 and ABN 97 616 861 198.

Board means the governing body of the Association with powers as provided in clause 18.

Board Member means a person elected as a member of the Board pursuant to clause 20.

Constitution means this constitution as amended from time to time.

Director-General has the same meaning as the word 'Secretary' has in the Act which at the time of adoption of this Constitution means:

- (a) the Commissioner for Fair Trading, Department of Finance, Services and Innovation, or
- (b) if there is no such position in the Department, the Secretary of the Department.

Elected Board Member has the meaning set out in clause 19.1(a).

Financial Year means the Association's accounting period of 12 months, which begins on the 1st day of July and ends on the last day of June each year or such other period as is determined by the Board.

General Meeting means a meeting of Members and includes an Annual General Meeting.

Income Tax Assessment Act means the *Income Tax Assessment Act 1997* (Cth).

Member means a person entered as a member on the register of the Association in accordance with clause 8.4.

Membership means membership of the Association.

Playgroup means a gathering of parents and carers with babies and/or young children who meet regularly for fun and learning experiences in a social setting.

Public Officer means a public officer appointed by an association's Board in accordance with section 34 of the Act.

Regulation means the *Associations Incorporation Regulation 2016* (NSW).

Representative means an individual appointed by a Member that is a body corporate from time to time to represent the Member at General Meetings.

Returning Officer means the person appointed as a returning officer of the Association from time to time in accordance with clause 45.

Secretary means the person appointed as secretary of the Association in accordance with clause 25.

Special General Meeting means a General Meeting of the Association other than an Annual General Meeting.

Special Resolution has the meaning given by clause 41.

Zone refers to a number of Playgroups in the same geographical area that have been recognised by the Board as being affiliated with the Association.

1.2 In this Constitution:

- (a) words importing any gender include all other genders;
- (b) the singular includes the plural and vice versa;
- (c) a reference to a law includes regulations and instruments made under the law;
- (d) a reference to a law or a provision of a law includes amendments, re-enactments or replacements of that law or the provision, whether by the State or the Commonwealth of Australia or otherwise;
- (e) a reference to a meeting includes a meeting occurring by use of technology where all participants can actively participate in the meeting;
- (f) a reference to a person includes an individual, a corporation or other body corporate;
- (g) a power, an authority or a discretion reposed in a Board Member, the Board, the Association in General Meeting or a Member may be exercised at any time and from time to time;
- (h) where, by a provision of this Constitution, a document including a notice is required to be signed, that requirement may be satisfied in relation to an electronic communication of the document in any manner permitted by law or by any State or Commonwealth law relating to electronic transmissions or in any other manner approved by the Board;
- (i) "writing" and "written" includes printing, typing and other modes of reproducing words in a visible form including, without limitation, any representation of words in a physical document or in an electronic communication or form or otherwise; and

1.3 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 was an instrument made under the Act.

2 **Objects**

The objects for which the Association is established are:

- (a) to promote and encourage the development of Playgroups throughout New South Wales;
- (b) to provide the opportunity for parents to develop support networks and gain more enjoyment, confidence and skills in their role as parents;
- (c) to ensure that all Playgroups encourage increased adult/child interaction and provide a stimulating environment in which children can develop creatively, socially, mentally and physically at their own rate;

- (d) to bring to parents, knowledge of child development, education and emotional needs;
- (e) to make available to parents/carers of children from birth to six years opportunities to develop and through involving themselves with full responsibility and running of all and any aspects of each Playgroup;
- (f) to advise, assist and encourage the activities of existing and new Playgroups and ensure that new Playgroups are established according to the Association's requirements;
- (g) to develop public awareness of the Playgroup movement and develop conscience concerning the welfare of younger children;
- (h) to liaise with parents, interpret their needs and represent their views to organisations and Government Departments with purposes and responsibilities related to Playgroups;
- (i) to work in close co-operation with other organisations interested in the welfare of young children and families;
- (j) to provide direct relief of disability, poverty or helplessness for children and their families during their child's formative years.
- (k) to act as trustee and to perform and discharge the duties and functions incidental thereto where this is incidental or conducive to the attainment of these objects; and
- (l) to do such things as are incidental or ancillary to the attainment of these objects.

3 Powers

The Association has the legal capacity and powers of an individual and also has all the powers of a body corporate under the Act.

4 Application of income for objects only

4.1 The income and the property of the Association, however derived:

- (a) must be applied solely towards the promotion of the objects of the Association as set out in clause 2; and
- (b) may not be paid or transferred to the Members, in whole or in part, either directly or indirectly by way of dividend, bonus or otherwise.

4.2 Clause 4.1 does not prevent payment in good faith to a Member, or to a firm of which a Member is a partner:

- (a) of reasonable remuneration for services to the Association;
- (b) for goods supplied in the ordinary course of business;
- (c) of fair and reasonable interest on money borrowed from a Member at a rate not exceeding that fixed for the purposes of this clause 4.2 by the Association in a General Meeting;
- (d) of reasonable rent for premises let by a Member; or
- (e) for reimbursement of reasonable out-of-pocket expenses incurred on behalf of the Association.

5 Winding up and cancellation

- 5.1 The Association may be wound up by Special Resolution.
- 5.2 In the event of the winding up or the cancellation of the incorporation of the Association, the surplus assets of the Association must not be distributed to any Members or former Members.
- 5.3 Subject to the Act and any court order made under section 63 of the Act, and subject to clause 6 or any public fund of the Association, the surplus assets must be given or transferred to one or more funds or institutions:
- (a) that has charitable objects similar to, or inclusive of, the Association; and
 - (b) is a not-for-profit entity whose rules or governing document prohibit the distribution of its income and assets among its members to an extent at least as great as imposed on the Association under this Constitution.
- 5.4 The funds or institutions to which the surplus assets are to be given must be decided by Special Resolution at or before the time of dissolution.

6 Transfer of surplus assets – deductible gift recipients

- 6.1 Where the Association has been endorsed or specifically listed as a deductible gift recipient, either under Subdivision 30-BA of the Income Tax Assessment Act as an entity or in relation to a fund or an institution it operates, then where:
- (a) the Association is wound up;
 - (b) the fund or institution is wound up; or
 - (c) the endorsement under Subdivision 30-BA of the Income Tax Assessment Act is revoked or the Association ceases to be specifically listed as a deductible gift recipient;
- any surplus:
- (d) gifts of money or property for the principal purpose of the Association, fund or institution (whichever is relevant);
 - (e) contributions described in item 7 or 8 of the table in section 30.15 of the Income Tax Assessment Act in relation to a fundraising event held for that purpose; and
 - (f) money received by the Association because of such gifts or contributions,
- remaining after payment of all liabilities must be transferred to one or more funds or institutions that comply with clause 5.3 and are deductible gift recipients.
- 6.2 Where the Association operates more than one fund or institution for which it is a deductible gift recipient and its endorsement under Subdivision 30-BA of the Income Tax Assessment Act is revoked only in relation to one of those funds or institutions, then it may transfer any surplus assets of that fund or institution after payment of all liabilities to any other fund or institution for which it is endorsed as a deductible gift recipient.

Part 2 - Membership

7 Membership qualifications

- 7.1 The Members as at the date of adoption of this Constitution and any person the Board approves as a Member under clause 8.2 are the Members of the Association.
- 7.2 A person is qualified to be a Member if the person:
- (a) in the case of an individual, is 18 years of age and over;
 - (b) supports the objects of the Association and agrees to be bound by this Constitution;
 - (c) meets any other membership qualifications determined by the Board from time to time; and
 - (d) has applied and been approved for Membership of the Association under clause 8.

8 Application for Membership

- 8.1 An application for Membership must be made in such form, and lodged with the Association in such manner, as the Board prescribes from time to time.
- 8.2 Each application for Membership will be considered by the Board in such manner as the Board prescribes from time to time.
- 8.3 The Board has the discretion to approve or to reject any Membership application, without giving the applicant any reason for doing so.
- 8.4 If the Board accepts an application for Membership and the Association receives the payment of the Membership fee (if any) due by the applicant, as soon as practicable, the Board must cause the name of the person to be entered on the register of Members. On the name being so entered, the applicant becomes a Member.
- 8.5 The Association shall maintain at least 5 Members.

9 Cessation of Membership

A person ceases to be a Member if the person:

- (a) in the case of an individual, death, or in the case of a body corporate, of it ceasing to exist or being wound up; or
- (b) resigns Membership by notice in writing to the Association; or
- (c) fails to pay a Membership fee within 3 months after the fee was due and payable; or
- (d) is expelled from the Association under clause 16.

10 Membership entitlements

A right, privilege or obligation which a person has by reason of being a Member terminates on cessation of the person's Membership.

11 Resignation of Membership

- 11.1 A Member may resign that Membership in accordance with this clause 11.
- 11.2 A Member who has paid all amounts payable by the Member to the Association in respect of their Membership may resign from Membership by:
- (a) first giving to the Secretary written notice of at least one month (or such other period as the Board may determine) of the Member's intention to resign; and
 - (b) on the expiration of the period of notice, the Member ceases to be a Member.
- 11.3 If a Member ceases to be a Member under clause 11.2, and in every other case where a Member ceases to hold Membership, the Secretary must make an appropriate entry in the register of Members recording the date on which the Member ceased to be a Member.

12 Register of Members

- 12.1 The Secretary must establish and maintain a register of Members specifying:
- (a) the name of the Member;
 - (b) the postal, residential or email address of the Member; and
 - (c) the date on which the person became a Member.
- 12.2 The register of Members must be kept in New South Wales:
- (a) at the main premises of the Association; or
 - (b) if the Association has no premises, at the Association's official address.
- 12.3 The register of Members must be open for inspection, free of charge, by any Member at any reasonable hour.
- 12.4 Members are required to advise the Association of any change to their details as recorded on the register of Members. The Association is not required to check that Member's details are current and correct.
- 12.5 A Member may obtain a copy of any part of the register on payment of a fee of \$1 for each page copied or, if some other amount is determined by the Board, that other amount.
- 12.6 A Member must not use information about a person obtained from the register of Members or send material to the person, other than for:
- (a) the purposes of sending the person a newsletter, a notice in respect of a meeting or other event relating to the Association or other material relating to the Association; or
 - (b) any other purpose necessary to comply with a requirement of the Act or the Regulation.
- 12.7 A Member is not eligible to exercise any of the following Membership rights unless the Member's name has been recorded in the register of Members for at least 48 hours:
- (a) voting at a General Meeting;
 - (b) requisitioning a General Meeting of the Association; and
 - (c) being included in the quorum of a General Meeting

13 Membership fees

- 13.1 The Members must pay such Membership fees as prescribed by the Board from time to time.
- 13.2 The Board may set different Membership fees for different types of Members including:
- (a) for Members that are individuals, reducing or waiving fees for Members experiencing financial hardship; or,
 - (b) for body corporate Members, fees based on such factors such as the body corporate's size, annual income or use of the Association's services.
- 13.3 The Membership fee (if any) is due each year on the anniversary of the date on which the Member joined the Association or such other date as determined by the Board.

14 Members' liabilities

The liability of a Member to contribute towards:

- (a) the payment of the debts and liabilities of the Association; or
- (b) 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 as required by clause 13.

15 Resolution of internal disputes

- 15.1 In the event of a dispute arising between Members (in their capacity as Members), or between a Member and the Association, or between a Member and the Board, the following procedure will apply.
- 15.2 Each party to the dispute must nominate a representative who is not directly involved in the dispute. Those representatives must then attempt to settle the dispute by negotiation.
- 15.3 Should the nominated representatives be unable to resolve the dispute within 14 days (or such other period as they may agree upon) the dispute must be referred to a person (or committee of persons) mutually agreed upon for mediation.
- 15.4 In the event that no person can be agreed upon to mediate the dispute it must be referred a community justice centre for mediation in accordance with the *Community Justice Centres Act 1983*.
- 15.5 At least 7 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 copies to the mediator.

16 Disciplining of Members

- 16.1 A complaint may be made to the Board by any person that a Member:
- (a) has persistently refused or neglected to comply with a provision or provisions of this Constitution; or
 - (b) has persistently and wilfully acted in a manner prejudicial to the interests of the Association; or
 - (c) has acted or made statements which in the reasonable opinion of the Board are inconsistent with, or contrary to, the objects of the Association.

- 16.2 On receiving such a complaint, the Board:
- (a) must cause notice of the complaint to be served on the Member concerned;
 - (b) must give the Member at least 14 days from the time the notice is served within which to make submissions to the Board in connection with the complaint; and
 - (c) must take into consideration any submissions made by the Member in connection with the complaint.
- 16.3 The Board may, by resolution, expel the Member from the Association or suspend the Member if, after considering the complaint and any submissions made in connection with the complaint, it is satisfied that the facts alleged in the complaint have been proved.
- 16.4 If the Board expels or suspends a Member, the Secretary must, within 7 days after the action is taken, cause written notice to be given to the Member of the action taken, of the reasons given by the Board for having taken that action and of the Member's right of appeal under clause 17.
- 16.5 The expulsion or suspension does not take effect:
- (a) until the expiration of the period within which the Member is entitled to appeal against the resolution concerned; or
 - (b) if within that period the Member exercises the right of appeal, unless and until the Association confirms the resolution under clause 17.5, whichever is the later.

17 Right of appeal of disciplined Member

- 17.1 A Member may appeal to the Association in General Meeting against a resolution of the Board under clause 16, within 7 days after notice of the resolution is served on the Member, by lodging with the Secretary a notice to that effect.
- 17.2 The notice may, but need not, be accompanied by a statement of the grounds on which the Member intends to rely for the purposes of the appeal.
- 17.3 On receipt of a notice from a Member under clause 17.1, the Secretary must notify the Board which is to convene a General Meeting of the Association to be held within 28 days after the date on which the Secretary received the notice.
- 17.4 At a General Meeting convened under clause 17.3:
- (a) no business other than the question of the appeal is to be transacted; and
 - (b) the Board and the Member must be given the opportunity to state their respective cases orally or in writing, or both; and
 - (c) the Members present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- 17.5 If the General Meeting passes a Special Resolution in favour of the confirmation of the resolution, the resolution is confirmed.

Part 3 - The Board

18 Powers of the Board

Subject to the Act, the Regulation and this Constitution and to any resolution passed by the Association in General Meeting, the Board:

- (a) is to control and manage the affairs of the Association;
- (b) may exercise all such functions as may be exercised by the Association, other than those functions that are required by this Constitution to be exercised by a General Meeting; and
- (c) has power to perform all such acts and do all such things as appear to the Board to be necessary or desirable for the proper management of the affairs of the Association, including making, rescinding or altering rules or policies which are binding on Members for the management and conduct of the Association.

19 Composition and Terms

19.1 The Board will consist of up to 9 Board Members as follows:

- (a) up to 5 Members, each of whom is to be elected at the Annual General Meeting under clause 16.2 (**Elected Board Member**);
- (b) up to 4 persons who have skills and experience beneficial to the Association appointed by the Board (**Appointed Board Member**) under clause 21;
- (c) at least one Elected Board Member must reside in an area designated by the Board as a regional area; and
- (d) at least one Board Member must have experience in finance.

19.2 Each Elected Board Member is, subject to this Constitution and clause 19.3, to hold office until the conclusion of the 3rd Annual General Meeting following the date of the Elected Board Member's election, but is eligible for re-election.

19.3 Board Members are entitled to seek reappointment as Board Members on one occasion provided that a Board Member's period of continuous service to the Association from the date of adoption of this Constitution, does not exceed a period of 6 years.

19.4 In the event of a casual vacancy occurring in Elected Board Members, the Board may appoint a Member to fill the vacancy and the Member so appointed is to hold office, subject to this Constitution, until the conclusion of the Annual General Meeting next following the date of the appointment.

20 Election of Board

20.1 At each Annual General Meeting of the Association an election is to be held to fill the vacancies of Elected Board Members arising on the Board.

20.2 Any two Members may nominate another Member (or the Representative of a Member) for election as an Elected Board Member.

20.3 A person is not eligible for election as an Elected Board Member unless he or she has been a Member of the Association for at least 6 months, or is the Representative of Member that has been a Member for at least 6 months.

- 20.4 Nominations of candidates for election as Elected Board Members:
- (a) must be made in writing, signed by 2 Members and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination); and
 - (b) must be delivered to the Secretary at least 6 weeks before the date fixed for the holding of the Annual General Meeting at which the election is to take place.
- 20.5 If insufficient nominations are received to fill all vacancies of Elected Board Members, the candidates nominated are taken to be elected as Elected Board Members and further nominations are to be received at the Annual General Meeting.
- 20.6 If insufficient further nominations are received to fill all Elected Board Member positions, any vacant positions of the Elected Board Members remaining on the Board are taken to be casual vacancies.
- 20.7 If the number of nominations received for Elected Board Members is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.
- 20.8 If the number of nominations received for Elected Board Members exceeds the number of vacancies to be filled, a ballot is to be held.
- 20.9 The ballot for the election of Elected Board Members is to be conducted at the Annual General Meeting in such usual and proper manner as the Board may direct.

21 Appointment and removal of Appointed Board Members

- 21.1 Subject to clauses 19.1, 21.2 and the Act, the Board may:
- (a) appoint Appointed Board Members;
 - (b) remove an Appointed Board Member, before the end of the Board Member's period of office; and
 - (c) appoint another person in that Appointed Board Member's place.
- 21.2 When considering whether to appoint a person as an Appointed Board Member, the Board should have regard to the expertise and qualifications of the person and the need to include persons with expertise and skills in one or more areas as set out in Schedule 1.

22 Retirement of Appointed Board Members

Subject to clause 19.3:

- (a) Appointed Board Members are appointed for terms of 3 years.
- (b) Any Appointed Board Member who has held office for 3 years or more since last being appointed, must retire from office at the conclusion of the Annual General Meeting that immediately follows the 3rd year anniversary, but is eligible for reappointment.

23 Retirement of Board Members – transitional rule applying for 2nd and 3rd Annual General Meetings

- 23.1 At the 1st Annual General Meeting from the date of adoption of this Constitution, 4 Board Members must retire from office but are eligible for reappointment. These vacancies are to be filled with Appointed Board Members. The Board Members remaining on the Board will be Elected Board Members for the purposes of this clause 23.

23.2 At the 2nd Annual General Meeting from the date of adoption of this Constitution, 2 Elected Board Members must retire from office but are eligible for reappointment.

At the 3rd Annual General Meeting from the date of adoption of this Constitution, 2 Elected Board Members must retire from office but are eligible for reappointment.

23.3 The Board Members to retire at each of these meetings shall be determined by the Board Members.

23.4 For the avoidance of doubt, this clause 23 ceases to have any application following the 3rd Annual General Meeting from the date of adoption of this Constitution.

24 Chairperson

24.1 The Board will elect from their number a chairperson of their meetings subject to clause 24.2 and may determine the period for which the person elected as chairperson is to hold office.

24.2 If a Board meeting is held and:

- (a) a chairperson has not been elected; or
- (b) the chairperson is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act;

then the Board Members present must elect one of their number to be a chairperson of the meeting.

25 Secretary

25.1 The Board must appoint at least one Secretary. The Public Officer, Board Member or a third party may be appointed as Secretary.

25.2 The Board may suspend or remove a Secretary from that office.

25.3 A Secretary holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, as determined by the Board. The exercise of those powers and authorities and the performance of those duties by a Secretary are subject at all times to the control of the Board.

25.4 The Secretary must, as soon as practicable after being appointed as Secretary, lodge notice with the Association of their address.

25.5 Unless otherwise determined by the Board, it is the duty of the Secretary to keep minutes of:

- (a) all appointments of Board Members;
- (b) the names of Board Members present at a Board meeting or a General Meeting; and
- (c) all proceedings at Board meetings and General Meetings.

25.6 Minutes of proceedings at a meeting referred to in clause 25.5(c) must be signed by the chairperson of the meeting or by the chairperson of the next succeeding meeting.

26 Treasurer

26.1 The Board will appoint a Treasurer.

- 26.2 The Board may suspend or remove a Treasurer from that office
- 26.3 Unless otherwise determined by the Board, it is the duty of the treasurer of the Association to ensure:
- (a) that all money due to the Association is collected and received and that all payments authorised by the Association are made; and
 - (b) that 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.

27 Vacancy of Board Member

For the purposes of this Constitution, a casual vacancy in the office of a Board Member occurs if that person:

- (a) dies;
- (b) ceases to be a Member;
- (c) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* (Cth);
- (d) resigns office by notice in writing given to the Secretary;
- (e) is removed from office under clause 21.1(b) or 28;
- (f) becomes a mentally incapacitated person;
- (g) is absent without the consent of the Board from all meetings of the Board held during a period of 6 months;
- (h) is convicted of an offence involving fraud or dishonesty for which the maximum penalty on conviction is imprisonment for not less than 3 months;
- (i) becomes prohibited, disqualified or removed from being a Board Member by any reason of any order of any court of competent jurisdiction or regulator;
- (j) holds any salaried office of the Association or any office of the Association paid by fees;
- (k) makes statements which are inconsistent with, or contrary to, the objects of the Association; or
- (l) is no longer willing or able to subscribe to the objects of the Association.

28 Removal of Board Member

- 28.1 The Association in General Meeting may by resolution remove any Board Member from that office before the expiration of the Board Member's term of office and may by resolution appoint another person to hold office until the expiration of the term of office of an Elected Board Member so removed.
- 28.2 If a Board Member to whom a proposed resolution referred to in clause 28.1 relates makes representations in writing to the Secretary or chairperson (not exceeding a reasonable length) and requests that the representation be notified to the Members, the Secretary or the chairperson may send a copy of the representations to each Member or, if the representations are not so sent, the Member is entitled to require that the representations be read out at the meeting at which the resolution is considered.

- 28.3 A person who is removed from the Board under this clause is not eligible for re-election or appointment to the Board for a period of 5 years.

29 Employees

No person who is an employee of the Association may be appointed as a Board Member.

No remuneration or other benefit in money or money's worth shall be given by the Association to any Board Member, except that payments may be made to a Board Member:

- (a) for the payment of out-of-pocket expenses incurred in carrying out the duties of a Board Member where the payments do not exceed an amount previously approved by the Board; or
- (b) for any service rendered to the Association in a professional or technical capacity, where the provision of that service has the prior approval of the Board and is on reasonable commercial terms.

30 Meetings of the Board

- 30.1 The Board must meet as often as is necessary to properly conduct the business of the Association at such place and time as the Board may determine.
- 30.2 Meetings of the Board may be convened by the chairperson or by any Board Member.
- 30.3 Oral or written notice of a meeting of the Board must be given by the Secretary to each Board Member at least 48 hours (or such other period as may be unanimously agreed on by the Board Members) before the time appointed for the holding of the meeting.
- 30.4 Notice of a meeting given under clause 30.3 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 Board Members present at the meeting unanimously agree to treat as urgent business.
- 30.5 More than half the number of current Board Members and not less than three **(3)** constitutes a quorum for the transaction of the business of a meeting of the Board.
- 30.6 No business is to be transacted by the Board unless a quorum is present and if, within half an hour of the time appointed for the meeting, a quorum is not present, the meeting is to stand adjourned to the same place and at the same hour of the same day in the following week.
- 30.7 If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting is to be dissolved.

31 Delegation by Board to sub-committee

- 31.1 The Board may, by instrument in writing, delegate to one or more sub-committees (consisting of such Members as the Board thinks fit) the exercise of such of the functions of the Board as are specified in the instrument, other than:
- (a) this power of delegation; and
 - (b) a function which is a duty imposed on the Board by the Act or by any other law.
- 31.2 A function the exercise of which has been delegated to a sub-committee under clause 31.1 may, while the delegation remains unrevoked, be exercised from time to time by the sub-committee in accordance with the terms of the delegation.

- 31.3 A delegation under this section 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.
- 31.4 Despite any delegation under this clause 31, the Board may continue to exercise any function delegated.
- 31.5 Any act by a sub-Board acting in the exercise of a delegation under this clause 31 has the same force and effect as it would have if it had been done by or to the Board.
- 31.6 The Board may, by instrument in writing, revoke wholly or in part any delegation under this clause 31.
- 31.7 A sub-Board may meet and adjourn as it thinks proper.

32 Voting and decisions

- 32.1 Questions arising at a meeting of the Board or of any sub-Board appointed by the Board are to be determined by a majority of the votes of Board Members or sub-Board present at the meeting.
- 32.2 Each Member present at a meeting of the Board or of any sub-Board appointed by the Board (including the person presiding at the meeting) is entitled to one vote.
- 32.3 Subject to clause 30.5, the Board may act despite any vacancy on the Board.
- 32.4 Any act by the Board or a sub-Board is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any Board Member or sub-Board.
- 32.5 In the event of an equality of votes cast for and against a question, the chairperson of the Board meeting does not have a 2nd or casting vote, and consequently the question is decided in the negative.
- 32.6 Circular resolutions
- (a) The Board may pass a resolution without a Board meeting being held if all of the Board Members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
 - (b) Separate copies of a document may be used for signing by Board Members if the wording of the resolution and statement is identical in each copy.
 - (c) The resolution is passed when the last Board Member signs.

Part 4 - General Meeting

33 Annual General Meetings

- 33.1 The Association must, at least once in each calendar year and within the period of 6 months after the expiration of each Financial Year, convene an Annual General Meeting of its Members.
- 33.2 Clause 33.1 has effect subject to any extension or permission granted by the Director-General.
- 33.3 The Annual General Meeting is, subject to the Act and to clause 33, to be convened on such date and at such place and time as the Board thinks fit.

34 Business at Annual General Meetings

- 34.1 In addition to any other business which may be transacted at an Annual General Meeting, the business of an Annual General Meeting is to include the following:
- (a) to confirm the minutes of the last preceding Annual General Meeting and of any Special General Meeting held since that meeting;
 - (b) to receive from the Board reports on the activities of the Association during the last preceding Financial Year;
 - (c) to elect Elected Board Members; and
 - (d) to receive and consider the financial statement which is required to be submitted to Members under the Act.
- 34.2 An Annual General Meeting must be specified as such in the notice convening it.

35 Calling of Special General Meetings

- 35.1 The Board may, whenever it thinks fit, convene a Special General Meeting.
- 35.2 The Board must, on the requisition in writing of at least 5% of the total number of Members, convene a Special General Meeting.
- 35.3 A requisition of Members for a Special General Meeting:
- (a) must state the purpose or purposes of the meetings;
 - (b) must be signed by the Members making the requisition;
 - (c) must 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.
- 35.4 If the Board fails to convene a Special General Meeting to be held within one month after that 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 3 months after that date.
- 35.5 A Special General Meeting convened by a Member as referred to in clause 35.4 must be convened as nearly as is practicable in the same manner as General Meetings are convened by the Board and any Member who consequently incurs expenses is entitled to be reimbursed by the Association for any expense so incurred.

36 Notice of General Meetings

- 36.1 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 must, at least 14 days before the date fixed for the holding of the General Meeting, give a notice to each Member specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.
- 36.2 Where the nature of the business proposed to be dealt with at a General Meeting requires a Special Resolution of the Association, the Secretary must, at least 21 days before the date fixed for the holding of the General Meeting, cause notice to be given to each Member specifying, in addition to the matters required under clause 36.1, the intention to propose the resolution as a Special Resolution.

- 36.3 No business other than that specified in the notice convening a General Meeting is to be transacted at the meeting except, in the case of an Annual General Meeting, business which may be transacted under clause 34.1.
- 36.4 A Member desiring to bring any business before a General Meeting may give notice in writing of that business to the Secretary who must include that business in the next notice calling a General Meeting given after receipt of the notice from the Member.

37 Procedure at General Meetings

- 37.1 A Member must appoint as a Representative an individual that is 18 years or over to represent the Member at General Meetings.
- 37.2 The appointment of a Representative by a Member:
- (a) must be in the form approved by the Board from time to time;
 - (b) must include the name of the Representative;
 - (c) must be in writing and be signed by an authorised representative of the Member and
 - (d) remains in force until the appointment is revoked.
- 37.3 No item of business is to 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.
- 37.4 Twenty-five Members (being Members entitled under this Constitution to vote at a General Meeting) present in person or by proxy or Representative constitute a quorum for the transaction of the business of a General Meeting.
- 37.5 In determining whether a quorum is present, each individual attending as a proxy or Representative is to be counted, except that:
- (a) where a Member has appointed more than one proxy, only one is to be counted; and
 - (b) where a Member is attending holding more than one proxy, that Member is to be counted only once.
- 37.6 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, is to stand adjourned to the same day in the following week at the same 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.
- 37.7 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 at least 3) is to constitute a quorum.

38 Chairperson of General Meeting

- 38.1 The chairperson elected under clause 21 is to preside as chairperson at each General Meeting.

- 38.2 If the chairperson is absent or unwilling to act, the Members present must elect one of their number to preside as chairperson at the meeting.

39 Adjournment

- 39.1 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.
- 39.2 If a General Meeting is adjourned for 14 days or more, the Secretary must give written or oral notice of the adjourned meeting to each Member stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.
- 39.3 Except as provided in clauses 39.1 and 39.2, 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.

40 Making of decisions

- 40.1 A question arising at a General Meeting is to be determined on a show of hands unless a poll is demanded.
- 40.2 Unless before or on the declaration of the show of hands a poll is demanded, 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.
- 40.3 At a General Meeting, a poll may be demanded by the chairperson or by at least 3 Members present in person at the meeting.
- 40.4 If a poll is demanded at a General Meeting, the poll must be taken:
- (a) immediately in the case of a poll which relates to the election of the chairperson of the meeting or to the question of an adjournment; or
 - (b) in any other case, in such manner and at such time before the close of the meeting as the chairperson directs, and the resolution of the poll on the matter is taken to be the resolution of the meeting on that matter.

41 Special Resolution

A resolution of the Association is a Special Resolution:

- (a) if it is passed by a majority which comprises at least three-quarters of such Members as, being entitled under this Constitution so to do, vote in person or by proxy or Representative at a General Meeting of which at least 21 days' written notice specifying the intention to propose the resolution as a special resolution was given in accordance with clause 36; or
- (b) where it is made to appear to the Director-General that it is not practicable for the resolution to be passed in the manner specified in paragraph (a), if the resolution is passed in a manner specified by the Director-General.

42 Voting

- 42.1 On any question arising at a General Meeting each Member has one vote only.

- 42.2 All votes must be given personally, by proxy, by Representative or by any appropriate corresponding method that the Board may determine if the meeting is occurring by use of technology.
- 42.3 In the case of an equality of votes on a question at a General Meeting, the chairperson of the meeting is not entitled to exercise a 2nd or casting vote and the resolution consequently fails.
- 42.4 A Member is not entitled to vote at any General Meeting unless all money due and payable by the Member to the Association has been paid, other than the amount of the Membership fee payable in respect of the then current year.

43 Proxy voting

- 43.1 Subject to the approval of the Board from time to time: each Member is to be entitled to appoint another Member as a proxy by notice given to the Secretary no later than 48 hours before the time of the meeting in respect of which the proxy is appointed.
- 43.2 A proxy has the same right as the Member to speak and vote at the meeting and may be appointed in respect of more than one meeting.
- 43.3 A Member is entitled to instruct their proxy to vote in favour of or against any proposed resolutions. The proxy may vote as they think fit unless otherwise instructed.
- 43.4 No Member (other than the chairperson) may hold more than 5 proxy votes.
- 43.5 The notice appointing the proxy is to be in the form determined by the Board from time to time.

44 Postal or electronic ballots

- 44.1 The Association may hold a postal or electronic ballot (as the Board determines) to determine any issue or proposal (other than an appeal under clause 17).
- 44.2 A postal or electronic ballot is to be conducted in accordance with Schedule 3 to the Regulation.

45 Returning Officer

- 45.1 Subject to the Act, the Board must appoint a person as Returning Officer for the purpose of conducting any ballot or poll at a General Meeting. The Returning Officer must be a person who does not have an interest in the outcome of the vote.
- 45.2 The Returning Officer must count the ballot. In doing so, the Returning officer must decide which votes (if any) are informal or invalid. The chairperson of the meeting may appoint one or more scrutineers to observe the counting process.

Part 5 - Miscellaneous

46 Insurance

The Association may effect and maintain insurance.

47 Sources of Funds

47.1 The funds of the Association are to be derived from:

- (a) Membership fees of Members;
- (b) donations
- (c) grants; and
- (d) subject to any resolution passed by the Association in General Meeting, such other sources as the Board determines.

47.2 All money received by the Association must be deposited as soon as practicable and without deduction to the credit of the Association's bank account.

47.3 The Association must, as soon as practicable after receiving any money, issue an appropriate receipt.

48 Management of Funds

48.1 Subject to clause 4 and any resolution passed by the Association in General Meeting, the funds of the Association are to be used in pursuance of the objects of the Association in such manner as the Board determines.

48.2 All cheques, drafts, bills of exchange, promissory notes and other payments must be signed by any 2 Board Members or employees of the Association, being Members or employees authorised to do so by the Board.

49 Alteration of Constitution

49.1 This Constitution may be altered, rescinded or added to only by a Special Resolution of the Association.

49.2 The Members must not pass a Special Resolution that amends this Constitution if passing it causes the Association to no longer be a charity.

50 Custody of books

Except as otherwise provided by this Constitution, all records, books and other documents relating to the Association must be kept in New South Wales:

- (a) at the premises of the Association in the custody of the Secretary or a Member (as the Board determines); or
- (b) if the Association has no premises, at the Association's official address, in the custody of the Secretary.

51 Inspection of books

- (a) The records, books and other documents of the Association must be open to inspection, free of charge, by a Member at any reasonable hour.

- (b) Despite clause 51(a), the Board may refuse to permit a Member to inspect or obtain a copy of records of the Association that relate to confidential, personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of the Association.

52 Affiliated Playgroups and Zones

52.1 The Board may establish a system of affiliation for recognising, supporting and regulating Playgroups (including community Playgroups, organisational Playgroup, early intervention Playgroups and supported Playgroups) and authorise the formation of Zones in such geographical areas of New South Wales and on such terms and conditions as the Board Members determine.

52.2 Branches

The Board Members may authorise the formation of branches of the Association in such geographical areas of New South Wales and on such terms and conditions as the Board Members determine. Branches will be subject to and must operate in accordance with the *Corporations Act 2001* (Cth), this Constitution, any relevant By laws and the directions of the Board Members and may be dissolved upon determination of the Board Members.

52.3 Playgroups and Zones that are affiliated with the Association will be subject to and must operate in accordance with the Act, this Constitution, any relevant policies and conditions of affiliation determined by the Board from time to time and the directions of the Board.

52.4 If an affiliated Playgroup or Zone disbands, fails to meet regularly or otherwise fails to function, the Board may dissolve it and terminate the affiliation of the Playgroup or Zone.

52.5 Upon termination of a Playgroup or Zone's affiliation, all its assets and funds (after payment of any expenses and liabilities) shall become the property of the Association unless otherwise specified in the conditions of affiliation.

52.6 A Member who is also a member of an affiliated Playgroup or Zone must take all reasonable steps to ensure that the Playgroup or Zone complies with its obligations to the Association.

53 Service of notices

53.1 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;
- (b) by sending it by post to the address of the person; or
- (c) by sending it by some form of electronic transmission to an electronic address nominated by the Member.

53.2 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 ordinary post:
 - (i) if sent to an address in Australia, three days after the date of its posting; and
 - (ii) if sent to an address outside Australia, five days after the date of its posting.

- (c) in the case of a notice sent by some form of electronic transmission, on the date it was sent.

54 Indemnity

- (a) The Association indemnifies each Board Member and other officer of the Association out of the assets of the Association, to the relevant extent, against all losses and liabilities (including costs, expenses and charges) incurred by that person as a Board Member or other officer of the Association:
 - (i) In defending any proceedings, whether civil or criminal in which judgment is given in favour of the Board Member or other officer, or in which the Board Member or other officer is acquitted; or
 - (ii) In connection with any application in relation to those proceeding in which relief is granted to the Board Member or other officer by the Court.
- (b) In this clause, 'to the relevant extent' means:
 - (i) to the extent that the Association is not precluded by law from doing so, and
 - (ii) 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).
- (c) The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer a Board Member or an officer of the Association.

55 Insurance

To the extent permitted by law, and if the Board Members consider it appropriate, the Association may pay or agree to pay a premium for a contract insuring a person who is or has been an officer of the Association against any liability incurred by the person as an officer of the Association.

Schedule 1 – Expertise and skills

- Board governance experience
- Finance / Accounting / Economic
- Legal
- Senior general/executive management leadership experience
- Previous experience managing a not-for-profit organisation.
- Senior strategy leadership
- Professional expertise in Early Childhood Development at a leadership, senior academic or research level